

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT
AUTHORITY ADOPTING BOARD PROCESS POLICY NO. 4.4.8 –
RECORDS ACCESS AND MANAGEMENT POLICY**

No. R2016-05-02

May 25, 2016

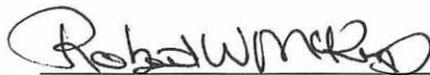
WHEREAS, the Utah Transit Authority (the "Authority") is a public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities-Local Districts Act and the Utah Public Transit District Act; and

WHEREAS, the Board of Trustees (the "Board") desires to adopt the Board Process Policy 4.8.8 – Records Access and Management Policy (the "Policy") in keeping with the Board's philosophy to provide leadership and governance to the Authority, and in accordance with the Government Records Access and Management Act, Utah Code Annotated §§63G-2-101, *et seq.*

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Utah Transit Authority:

1. That the Board hereby adopts the Board Process Policy 4.4.8 – Records Access and Management Policy, a copy of which is attached to this Resolution as Exhibit A.
2. That the Board hereby ratifies any and all actions taken by Authority management and staff in furtherance of and effectuating the intent of this Resolution.
3. That the President/CEO direct staff to submit a signed copy of the Policy to the State Archives office within thirty (30) days from adoption.
4. That this Policy stay in force and effect until rescinded, amended, or superseded by further action of the Board of Trustees.
5. That the corporate seal be attached hereto.

APPROVED AND ADOPTED this 25th day of May, 2016.



H. David Burton, Chair

ATTEST:



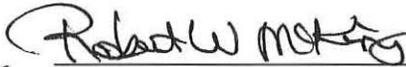
Robert K. Biles, Secretary/Treasurer

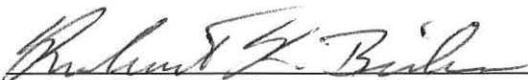
[SEAL]



CERTIFICATE

The undersigned duly qualified Chair of the Board of Trustees of the Utah Transit Authority certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Board of Trustees held on the 25th day of May, 2016.


for H. David Burton, Chair


Robert K. Biles, Secretary/Treasurer

APPROVED AS TO FORM

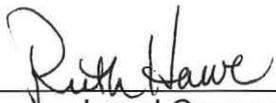

Legal Counsel

EXHIBIT "A"

Copy of Board Process Policy No. 4-4-8

UTAH TRANSIT AUTHORITY

BOARD PROCESS POLICY

No. 4.4.8

RECORDS ACCESS AND MANAGEMENT POLICY

I. General Purpose

The Utah Transit Authority, (the "Authority") a public transit district organized under the laws of the State of Utah, adopts this Records Access and Management Policy (the "Policy") to comply with the Governmental Records Access and Management Act, Utah Code Annotated, §§63G-2-101, *et seq.* (the "Act"), recognizing the continued need to maintain and preserve accurate records, provide public access to public records, preserve the right of privacy of personal data collected or received by the Authority, and protect records containing Sensitive Security Information as defined in 49 CFR 1520.5 *et seq.* or classified confidential or exempt pursuant to Federal law.¹

II. Authority Policy

The Authority recognizes the application of that Act to the Authority's records. UCA §§63G-2-701, *et seq.* provides that each political subdivision or governmental entity such as the Authority may adopt a policy relating to information practices, including classification, designation, access, denials, segregation, appeals, management, retention and amendment of records. This Policy provides modifications to the general provision of the Act, where allowed, to best meet the public needs, operation, management capabilities and resources of the Authority.

III. Compliance with Law

The following sections of the Act apply to the Authority and are incorporated by reference. Any inconsistency or conflict between this Policy and the Act will be governed by Federal or State Statute. Any statutory changes made by the Utah State Legislature pertaining to the Act will be incorporated as if in the Policy until a formal modification of the Policy is made.

Part 1 General Provisions

§63G-2-101	Title
§63G-2-102	Legislative intent
§63G-2-103	Definitions
§63G-2-105	Confidentiality agreements
§63G-2-106	Records of security measures
§63G-2-107	Disclosure of records subject to federal law

¹ Formerly Corporate Policy 1.1.10, as approved by the Board of Trustees.

§63G-2-108 Certification of records officer.

Part 2 Access to Records

§63G-2-201 Right to inspect records and receive copies of records
§63G-2-202 Access to private, controlled and protected documents
§63G-2-203 Fees
§63G-2-204 Requests- Time limits for response and extraordinary circumstances
§63G-2-205 Denials
§63G-2-206 Sharing records
§63G-2-207 Subpoenas- Court ordered disclosure for discovery

Part 3 Classification

§63G-2-301 Public records
§63G-2-302 Private records
§63G-2-303 Private information concerning certain government employees
§63G-2-304 Controlled records
§63G-2-305 Protected records
§63G-2-306 Procedure to determine classification
§63G-2-307 Duty to evaluate records and make designations and classifications
§63G-2-308 Segregation of records
§63G-2-309 Confidentiality claims
§63G-2-310 Records made public after 75 years, except as subject to certain exceptions, described in Section VIII.E. of this Policy

Part 4 Appeals

§63G-2-400.5 Definitions
§63G-2-401 Appeal to chief administrative officer- Notice of the decision of the appeal
§63G-2-402 Appealing a decision of a chief administrative officer
Appeals to the records committee
§63G-2-403
§63G-2-404 Judicial review
§63G-2-405 Confidential treatment of records for which no exemption applies
§63G-2-406 Evidentiary standards for release of certain enforcement and litigation records

Part 5 State Records Committee

Part 5 creates, and sets forth the duties of, the State Records Committee. Not incorporated here - the Authority acknowledges Part 5 and the State Records Committee as described

Part 6 Accuracy of Records

§63G-2-601	Rights of individuals on whom data is maintained
§63G-2-602	Disclosure to subject of records context of use
§63G-2-603	Requests to amend a record [as applicable to the Authority as a non-state agency]
§63G-2-604	Retention and disposition of records

Part 7 Applicability to the Public Transit Districts: the Judiciary and the Legislature

§63G-2-701	Political subdivisions to enact a policy in compliance with chapter- Appeal process [see section XI below for the Authority's appeals process]
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Part 8 Remedies

§63G-2-801	Criminal penalties
§63G-2-802	Injunction - Attorney's fees
§63G-2-803	No liability for certain decisions of a governmental entity
§63G-2-804	Disciplinary action

IV. Additional Definitions

A. "Authority" means Utah Transit Authority, or any public or private entity which, pursuant to contract with the Authority, has agreed to produce and maintain the Authority's records.

B. "Board of Trustees" means the Board of Trustees of the Authority.

C. "Computer software program" means the 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, or other source material explaining how to operate the software program. "Software" does not include the original data or record which is manipulated by the software.

D. "Data" means individual entries in records (for example, birth date, address, etc.).

E. "Dispose" means to destroy, or render irretrievable or illegible, a record of the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing or other records.

F. "General Counsel" means the General Counsel of the Utah Transit Authority, or designee.

G. "General Manager" means the General Manager, Chief Executive Officer and/or President of the Utah Transit Authority, or designee.

H. "Non-public records" are those records defined as private, controlled, protected or exempt or not defined as a record by the Act. Non-public records also include those records defined by federal law as confidential, sensitive security information or have any other protection from production, including by way of example, as so defined under the Health Insurance Portability and Accountability Act (HIPAA) or the Freedom of Information Act (FOIA).

I. (1) "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 Authority where all the information in the original is reproducible by photocopy or other mechanical or electronic means.

(2) "Record" does not mean:

- A personal note or personal communication prepared by or received by an 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;
- Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person whom he is working (provided that the materials have not been provided to any non-Authority individual or entity other than those with whom the Authority is negotiating or working);
- Materials that are legally owned by an individual in the individual's private capacity or are not considered by the Authority to be a record;
- Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the Authority;
- Junk mail or commercial publications received by the Authority or by an officer or employee of the Authority;
- Transit time and routing schedules (whether electronic or printed),

news and information bulletins, information displayed on electronic message boards on vehicles and stationary transit facilities, third-party apps and programs not created or maintained by the Authority, and other materials specifically designed for dissemination to the public by the Authority;

- Personal notes, daily calendars, or non-Authority related communications prepared by any Authority employee for personal use or in the employee's private capacity, or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting closed pursuant to the Utah Open Meetings Act; or
- Proprietary computer software programs as defined in subsection C above that are developed, purchased, or leased under a license agreement by or for the Authority for its own use.

J. "Sensitive Security Information" or "SSI" means (SSI) means information contained in a record obtained or developed in the conduct of security activities as defined in 49 CFR Part 15.

V. Public Right to Records

A. Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the Authority, of all the Authority's 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.

B. The Authority has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When a record is temporarily held by a custodial agency, pursuant to that 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 purposes of this Policy. The record shall be considered a record of the Authority and any requests for access to such records shall be directed to the Authority, rather than the custodial agency, pursuant to these procedures.

VI. Public, Private, Controlled and Protected Records

A. All Authority records are considered public unless they are (1) expressly designated, classified or defined otherwise by the Authority 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 shall be made available to the following persons:
- The subject of the record;
 - The parent or legal guardian of a minor who is the subject of the record;
 - The legal guardian of an incapacitated individual who is the subject of the record;
 - Any person who has a power of attorney or an **original** notarized release, dated no more than 90 days prior to the date the request is made, from the subject of the record ;
 - Any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.
 - Private records requested through the mail shall include an original notarized GRAMA Request or an original notarized Authorization for Release of Records from the subject of the record dated no more than 90 days prior to the date the request is made.

C. 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 an original notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by herein, or to any person to whom the record must be disclosed pursuant to court order or a legislative subpoena as provided in the Act. A person who receives a record from the Authority in accordance with this Subsection may not disclose controlled information from that record to any person, including the subject of the record. 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.

D. Protected records may be made available to the person who submitted the information in the record, to a person who has power of attorney or notarized original release from all persons or governmental entities whose interests were sought to be protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding the release of the information signed by a judge of competent jurisdiction.

VII. **Privacy Rights**

A. The Authority recognizes and upholds the personal rights of privacy retained by persons who may be the subject of governmental records.

B. The Authority shall require the requester of private, protected, or controlled records to provide a written original notarized release from the subject of the records, specific to the Authority and identifying with specificity the records to be produced. The original release must be signed and notarized within ninety (90) days of the request before access to such records is given.

C. The Authority may disclose private, controlled, or protected records to another governmental entity, political subdivision, another state, the United States, or a foreign government only as provided by UCA §§63G-2-206.

D. The Authority may disclose or authorize disclosure of private or controlled records for research purposes if the Authority determines that the research meets the requirements of UCA §§63G-2-202(8).

E. The Authority may not produce records received by the Authority that are records of another governmental entity. Requests sent to the Authority pertaining to the records of another governmental entity will be referred to the proper originating governmental entity.

VIII. **Designation, Classification and Retention**

A. All Authority records and record series, of any format, shall be designated, classified and scheduled for retention according to the Act and this Policy. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention.

B. Records designation, classification, and scheduling for retention shall be conducted under the supervision of the Authority's Records Manager and/or Records Officer. All requests for records for non-Authority business purposes will be referred to the Records Officer.

C. The Records Manager may periodically update, revise or modify the retention schedule to comply with statutory requirements, the adopted Utah State Archives general retention schedules or adopted National Archives records schedules as applicable without formal adoption by the Board of Trustees.

D. The Records Manager and/or the Records Officer shall file the updated, revised or modified retention schedule with the State Records Committee upon finalization.

E. The Records Manager and/or Records Officer may identify and designate certain rail assets and infrastructure information and records as permanent.

IX. **Procedures for Records Requests**

A. In all circumstances when copies are requested, the requester shall fill out and present to the Records Officer a written request on forms provided by the Authority, or through electronic means such as GRAMA@rideuta.com or openrecords.utah.gov by providing the information required by the Act. The date and time of receipt 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. Requesters of non-public

information shall adequately identify themselves and their status prior to receiving access to non-public records by submitting a written identification and any other requirements as defined in the Act.

B. The Records Officer may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies, procedures and State and Federal laws.

C. 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 UCA §63G-2-206.

D. (1) In most circumstances and excepting those eventualities set out below, the Authority shall respond to a written request for a public record within ten (10) business days after that request.

(2) Extraordinary circumstances shall justify the Authority's failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto to the time reasonably necessary to respond to the request, as determined by the General Manager. Extraordinary circumstances shall include, but not be limited to, the following:

(a) Some other governmental entity is currently and actively using the record requested;

(b) The record requested is for either a voluminous quantity of records or requires the Authority to review a large number of records or perform extensive research to locate the materials requested;

(c) The Authority is currently processing either a large number of records requests or is subject to extraordinary seasonal workloads in the process 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; or

(f) Providing the information request requires computer programming or other format manipulation.

(3) When a record request cannot be responded to within ten (10) days, the Records Officer shall give the requester an estimate of the time required to respond to the request.

E. The failure or inability of the Records Officer to respond to a request for a record within the timeframes set out herein, or the Authority's denial of such a request shall give the requester the right to appeal as provided in Section XI.

X. Fees

A. Applicable fees for the processing of information requests under this Policy shall generally be as established by policies adopted under this Policy. The Fee

Schedule attached hereto sets forth fees to be charged for requests relating to the Government Records Access and Management Act. The Fee Schedule shall be reviewed annually by the Authority's Board of Trustees, and may be modified separately, as desired, and attached to this Policy at the time of such annual review.

XI. Appeal Process

A. If the Records Officer denies a records request, a requestor or interested party affected by the Records Officer's denial or claim of extraordinary circumstances may appeal the determination within thirty (30) days after date of notice of denial or 30 days after UTA failed to provide Records within the time allowed for response, to the General Manager, by mailing a written notice of appeal. The notice of appeal shall contain the petitioner's name, address, phone number, relief sought and if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.

B. If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the General Manager shall send a notice of the requester's appeal to the effected person or entity within 3 business days after receiving the notice of appeal. The business confidentiality claimant shall have 7 business days after the notice is sent by the General Manager to submit further support for the claim of confidentiality.

C. The General Manager shall make a determination on the appeal within five (5) business days after receipt of the appeal. During this period the General Manager may schedule an informal hearing or request any additional information deemed necessary to make a determination. The General Manager shall send written notice to all participants providing the reasons for the General Manager's determination. If the General Manager does not respond after the 5 business days, the appeal will be deemed denied. If the appeal involves a claim of business confidentiality, the General Manager shall made a decision on the appeal within 12 business days after sending notice of appeal to the affected party, specified in Section XI, B above. Failure of the General Manager to send a written determination within the time specified is the equivalent of a decision affirming the access denial.

D. If the General Manager affirms the denial, in whole or in part, the requester or a party with an established interest may petition to the State Records Committee as provided for in UCA § 63G-2-403 of the Act or seek judicial review in district court as provided in UCA §63G-2-404 of the Act, no later than thirty (30) days after the decision is issued.

XII. Reasonable Accommodation

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

XIII. Records Amendments

Records held by the Authority may be amended or corrected as needed. Requests for amendments, corrections or other changes shall be made in writing to the Authority having custody of the records and setting 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 by the Act or other State or Federal law.

XIV. Penalties

A. Authority 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, or remove records to allow other persons to do so in violation of the provisions of the Act, this Policy or other law or regulations, may be subject to criminal prosecution and disciplinary action, including termination of employment.

B. In accordance with the Act, neither the Authority nor any of its officers, employees or agents shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

XV. Records Officer

The General Manager shall appoint a Records Manager and/or a Records Officer to oversee and coordinate records access, management and archives activities. The Records Manager or the Records Officer shall make reports of records services activities to the Board of Trustees as appropriate or as requested. The Records Officer shall be certified in accordance with provisions of Utah Code 63G-2-108.

XVI. Records Maintenance

A, Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve Authority records safely and accurately over the long term. The Records Manager shall be responsible for monitoring the application and use of technical processes in the creation, duplication and disposal of Authority records. The Records Manager shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance of records.

B. All Authority records shall remain the property of the Authority unless federal or state legal authority provides otherwise. Property rights to Authority records may not be permanently transferred from the Authority to any private individual or entity, including those legally disposable obsolete Authority records. This prohibition does not include the providing of copies of Authority records otherwise produced for release or

distribution under this chapter.

C. Custodians of any Authority 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, supervisors, to the Records Manager, the Records Officer, or to the General Manager.

XVII. Cross-References.

- Utah Government Records Access and Management Act, UCA §63G-2-101, *et seq.*
- Utah Transit Authority Records Management Guidelines
- Utah Transit Authority Records Retention Schedules

Rescinds	Replacing Corporate Policy 1.1.10- Amended Records Access and Management Policy and all other versions dated as follows: October 27, 2010; April 28, 2010; September 24, 2008; October 27, 1999; July 22, 1992; and September 6, 1989
Effective Date:	May 25, 2016
Adoption Date:	May 25, 2016
Approval Date for Fee Schedule	May 25, 2016

FEE SCHEDULE
Approved May 25, 2016

1. Reviewing a record to determine whether it is subject to disclosure: No Charge unless the quantity of subject records is extraordinary.
2. Inspection of record: No Charge to requesting person unless records must be produced from a proprietary secure electronic database.
3. Copies for media: The Authority may fulfill a record request for an employee or representative of the print or electronic media demonstrating proper credentials within 5 working days of the request. If the request is voluminous, extra time may be required. Standard copying fees will be charged.
4. Impecunious: The Authority may fulfill a record request for Persons without charge when the person making the request: (1) files a sworn written affidavit with the Authority stating that the person is impecunious and cannot pay the fee or charge; (2) the person making the request is the real party in interest; and (3) that the request is not for a large or voluminous quantity of records; and (4) the request does not require more than 30 minutes of staff time to assemble records responsive to the request.
5. Government entity: The Authority may waive the charging of a fee when the requesting person is another governmental entity or quasi-governmental entity with whom the Authority follows the practice or has a policy or an agreement to waive similar fees on documents requested by the Authority.
6. Copy fees and miscellaneous fees:

*Cost	Description
.50 per page	8 ½" x 11" black and white page of copy
\$1.00 per page	8 ½" x 11" color copy
\$1.00 per page	11" x 17" black and white page of copy
\$2.00 per page	11" x 17" color copy
\$1.00 per page	Faxing documents
Staff hourly rate	If research or preparation of information is required (such as redaction) exceeding 15 minutes of time, an hourly charge is assessed. The hourly rate will depend upon the lowest hourly rate of the employee with proper security clearance required to perform the task. See Utah Code Ann. §§63G-2-203(2) <i>et seq.</i>
Actual cost of reproduction plus staff time to produce	Oversized copy and or graphics
Standard U.S. Postage Rates	Standard U.S. Postage Rates will apply to all requests

\$15.00	\$15.00 for Transit Police Report. Transit Police Reports primarily contain information classified as private. Secondary classifications may exist depending on the record content. Transit Police Reports will only be provided to the subject of the record, or individuals or entities providing an original notarized release from the subject of the record specifically allowing UTA to provide the private information. Additional fees may apply.
\$25.00	Archived records retrieval, for retrieval of record(s) from a Records Retention Center or other storage location removed from the place of business of the department or division which maintains the record(s).
\$20.00 or actual cost of any external drive	Per UBS drive, plus staff time to scan the records to electronic format if necessary.
\$2.00	Cost for each certification, if the record is required to be certified

*If costs associated with the request are anticipated to exceed \$50.00, **pre-payment** for the requested documents will be required. If the pre-payment amount exceeds the actual cost of producing the records, a refund of the amount difference will be generated. Additionally, if a requestor has not properly paid for previously received materials, the Authority will hold the current request until the outstanding payment in full for the prior requests is received, pursuant to Utah Code Annotated §§63G-2-203(8) *et seq.*

If records are copied at a bonded copy center, the actual cost of copying the documents will be charged rather than the published rate above. This option is only available for records classified as "public" that are not subject to Federal regulations mandating the records be maintained on the Authority premises at all times.