

GRAMA Notice of Appeal to State Records Committee

Note: Utah Code § 63G-2-403 (GRAMA) provides that any person may further appeal the chief administrative officer's denial of an appeal by filing a notice of appeal with the State Records Committee. This notice must be filed within 30 days of the response from a governmental entity's chief administrative officer or no later than 45 days after the records request was made if the following occur: the governmental entity claims extraordinary circumstances, and the chief administrative officer failed to make a determination.

Requester's information

Name: Kimball Bennion Date: 4/16/2018

Address: 299 S. Main St., Ste. 150, Salt Lake City, UT 84111 City/State/Zip:

Daytime telephone number: [REDACTED]

Make request to

Nova Dubovik
346 South Rio Grande Street
Salt Lake City, Utah
84101 ndubovik@utah.gov

Explanation of Relief Sought

Note: Relief can relate to conflicts over denial of access to records (Utah Code § 63G-2-402) as well as disputes over fees (Utah Code § 63G-2-203(6)) or extraordinary circumstances (Utah Code § 63G-2-402)).

The State Records Committee can also use the weighing provision to order the release of records that are properly restricted if it determines that the interests favoring access are greater than or equal to the interests favoring restriction (Utah Code § 63G-2-203(11)).

KUTV 2 News seeks relief from a denial of appeal on April 10 from Chief Larry Stott of the Brigham Young University Police Department. The record we seek is a recording of a 2017 interview BYU Police conducted with Joseph L. Bishop, a former president of the Missionary Training Center in Provo.

In Chief Stott's denial, he referenced Utah Code 63G-2-302(2)(d), which states a record can be classified as private if it contains "data on individuals the disclosure of which constitutes a clearly unwarranted invasion of privacy."

We do not believe Chief Stott's denial of these records meets that standard either in this specific case or generally as it applies to police investigative records.

In the case at hand, the allegations of rape against Bishop have been made public both from his accuser through multiple media reports and through a lawsuit filed against him in U.S. District Court. BYU Police granted the release of its written report, which also details the allegations against him as well as certain admissions Bishop made to investigators in the course of their interviews with him. Given what has already been made public in this particular case, any claims to privacy for Bishop or of anyone else connected with this investigation do not outweigh the public's right to know.

In a broader sense, we cannot find any legal precedent that would allow BYU Police or any police agency to withhold material from an investigation that is now closed. Records pertaining to police investigations that are not ongoing are routinely released to the public, and Chief Stott's reasoning for his denial should not provide an exception to that norm.

Inclusions for notice of appeal

The State Records Committee requires documentation and has specific appeals procedures which are outlined in Administrative Rule: Title R35. Administrative Services, Records Committee, and should be reviewed by a petitioner.

This petition to appeal to the State Records Committee requires the following attachments or inclusions:

- _____ Statement of facts, reasons, and legal authority in support of this appeal
(see Utah Code § 63G-2-403(3)(b)).
- _____ Original GRAMA request
- _____ Notice of denial from the governmental agency's records officer
- _____ Notice of appeal to the governmental entity's chief administrative officer (Optional)
- _____ Notice of decision from the governmental entity's chief administrative officer

This notice of appeal must, **on the same day**, also be forwarded to the governmental entity to which the records request was made (Utah Code § 63G-2-403(3)).

- _____ Notice of appeal sent to agency

Request assistance

A petitioner may request assistance from the government records ombudsman. The ombudsman's responsibility is to serve as a resource for a person who is filing an appeal relating to a records request. The ombudsman may also attempt to mediate disputes between requesters and responders (Utah Code § 63A-12-111(2)).

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