

REC'D JAN 15 2019

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: Anthony Fierro Date: 01/14/19

Address: [REDACTED] City/State/Zip:

Daytime telephone number: [REDACTED]

Make request to

SRC Executive Secretary
346 South Rio Grande Street
Salt Lake City, Utah 84101
gproctor@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)).

I am appealing the Salt Lake City School District's December 18, 2018, denial notice.

The inadequacy of the denial notice by Janet Roberts, Business Administrator of the Salt Lake City School District is in direct violation of Utah Code § 63G-2-205(2)(a), which requires that whenever access to a record is denied, the denial notice include a "description" of THAT record, not a grouping of records. The letter also fails to adequately comply with Utah Code § 63G-2-205(2)(b), which requires the denial notice include, for any withheld record, a citation to the provision of GRAMA (or other law) that exempts the record from disclosure.

First, the plain language of Utah Code § 63G-2-205(2) states that a description and citation must be provided for any withheld "record" (singular). Thus, a denial notice must separately describe and justify the withholding of each withheld record, rather than grouping together an undisclosed number of records and omitting all description as has been done in this case.

Second, the Utah State Records Committee has ruled that withheld records must be "definitively identified" with "reasonable specificity", not only to the Committee itself but also to the requester.

Third, the language of Utah Code § 63G-2-205(2) explicitly requires that a description of withheld documents be sufficiently detailed to "enable other parties to assess the applicability of the privilege or protection." In other words, a GRAMA denial notice must be similarly informative in its description of each withheld record, in order to give the requester sufficient information to bring an appeal.

Fourth, should this case eventually go to court, the civil discovery process could be invoked directly to obtain such a detailed description of each withheld record.

Fifth, the Utah Legislature explicitly intended GRAMA to be "consistent with nationwide standards of information practices". Utah Code § 63G-2-102(3)(d). At the federal level, there is a large body of case law requiring that records withheld under the Freedom of Information Act be described in an itemized and detailed "Vaughn index".

Finally, the Business Administrator states "9 emails were withheld because you have already received the as a recipient". That is a false statement, I have received no such emails and I am appealing the denial on the bases that I do not have them.

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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