

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: Rachel Hill Date: November 7, 2018

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\(11\)](#)).

November 7, 2018

Dear SRC Executive Secretary,

Today I received a GRAMA records request denial from Mr. Leon Wilcox, (email communication and original request attached) because the records I requested are not available in a single report or database and/or they are classified as private. In my previous requests I acknowledged that the records I was requesting were classified as private, but withstanding are subject to disclosure because:

1. My legal rights (due process, property interest) have been compromised by Canyons School District (CSD). Information in the requested records have been used to terminate my employment, disqualify me for unemployment insurance, and to take disciplinary action against my educator license.
2. Even though the records I'm requesting are employee evaluations and are classified as private records, I am the one that submitted the record to CSD. Any employee name that cannot be shared with me can be omitted from the record or substituted with an employee number. And because I am either the subject of the record, submitted the record, or am a comparable subject of the record, my right to the information is not outweighed by the privacy interests of any other parties involved.

Mr. Wilcox also expressed that "the CTESS dashboard Instructional Priority Observation Protocols (POPS) for the years requested and for all employees are not available in a single report or database. It would take substantial investment by the District's Information Technology Department to construct such a report or database." It appears from what CSD submitted to UPPAC (see attached "Attachments_A&B&C") where I am the subject of an investigation that the database exists and that data can be reasonably mined and shared.

Mr. Wilcox suggested in his denial to my appeal that "[y]ou may continue contacting UPPAC for relevant information you believe you have not yet received." However, as I previously explained to Mr. Wilcox, I cannot require or compel UPPAC to request information from CSD. When Mr. Steve Oler (UPPAC investigator) began his investigation, I asked him to request the IPOP data/teacher evaluation information from CSD, however to date he hasn't responded to my request. As a result, UPPAC has only relied on the information CSD has provided them and has not been able to evaluate any IPOP data/teacher evaluation information that support my claim that the teacher IPOP/evaluations were conducted accurately and completely. Without a release of these records, I am unable to establish my burden of proof. Even if CSD does not accept my claim that the teacher IPOP/evaluations were conducted accurately and completely, CSD can not preclude the release of the records. Without a release of the records UPPAC cannot determine if the facts support the charge of "documentation mismanagement." And if UPPAC is unable to determine if the facts support the charge then they are unable to determine if the charges warrant a sanction against my license. Additionally, UPPAC cannot determine whether the IPOP data/teacher evaluation information that CSD submitted to them from the discrete and separate instances only from my record as an evaluator is consistent or inconsistent with other evaluators following CSD's CTESS teacher evaluation protocol and CSD policy. That is why comparative records of POP data/teacher evaluation information should be included in the record. I alone bear the burden of proving that the POP data/teacher evaluation information represents a complete and accurate teacher evaluation as well as a behavior consistent with other evaluators/administrators. See Perez, 2014 UT App 31, ¶ 26; Kelly, 2000 UT App 235, ¶ 30; Lucas v. Murray City Civil Service Comm'n, 949 P 2d 746, 761 (Utah Ct. App. 1997). This can only be accomplished if CSD provides me reasonable access to the IPOP data/teacher evaluation information CSD used to file its complaint to UPPAC. Even if CSD feels no responsibility to share the requested records with me, CSD should want to relieve UPPAC from sanctioning a teacher/administrator license without knowing if the sanction is (1) based on facts that are consistent by comparison to a whole record as to rule out arbitrary and capricious interpretation; and, is it (2) consistent with other evaluator/administrator data that are acting pursuant to CSD policy. Because Mr. Dimond flatly refused to disclose the information he submitted to UPPAC on March 20, 2018, and Ms. Stewart denied my request on November 1, 2018, and UPPAC's investigator Mr. Oler never responded to my request in September to compel its production, and now Mr. Wilcox has denied my request, I am appealing to the State Records Committee to assist in resolving the dispute.

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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