

SALT LAKE COUNTY
COUNTYWIDE POLICY
ON
GRAMA ACCESS TO RECORDS

Reference—

Government Records Access and Management Act (GRAMA), Utah Code Annotated, Subsections 63G-2-201, 202, 204, 205 & 206

Records Management, Salt Lake County Ordinance Sections 2.82.010,020 & 080

Purpose—

The purpose of this policy is to specify how persons access County records that have been classified PUBLIC, PRIVATE, CONTROLLED, OR PROTECTED. Salt Lake County strongly supports the rights of persons to access public records. The physical form of a record shall not be used to deny or unreasonably hinder the rights of persons to inspect and receive copies of records.

1.0 Access to Records

- 1.1 Every person has the right to inspect a public record free of charge and obtain a copy of a public record during normal working hours, subject to Countywide Records Policy and Procedure 2060, Fees for Duplication of Records.
- 1.2 All county agencies, departments and divisions shall provide access to public records during the normal working hours of each agency.
- 1.3 When an agency receives a records request for records that are retained by multiple county agencies, a copy of the request must be forwarded to each affected agency. Each agency is then responsible to respond for those records which they maintain. If a request has been submitted to an agency that does not retain the records it must be forwarded to the correct agency by the end of the next business day after the receipt of the request.

2.0 Records Classifications – General Definitions

State law and County ordinance divide governmental records into four main classifications: PUBLIC, PRIVATE, CONTROLLED and PROTECTED. In addition, some materials may be considered NON-RECORDS and other materials may be considered EXEMPT from GRAMA. The following definitions provide a general reference guideline. Each classification is explained in detail in Countywide Policy 2090.

- 2.1 PUBLIC RECORDS – all records are considered public unless specifically provided otherwise. The law provides that there are two types of public records; those which are always treated as open and available to the public or, those which are usually classified as available to the public, but which may be classified as non-public under limited circumstances.

- 2.2 PRIVATE RECORDS – records regarding a person's personal circumstances that may be classified as private and unavailable for disclosure; including records of benefits eligibility, medical records, and personal financial records. Private records are also divided into two types: those that are always classified as private, and those that are usually classified as private.
- 2.3 CONTROLLED RECORDS -- Records that generally relate to medical or mental health records, the release of which would likely be detrimental to the subject of the record.
- 2.4 PROTECTED RECORDS -- Protected records generally deal with those matters where release of the information may be harmful to government function and working processes; including materials dealing with confidential commercial information, purchasing strategies, investigations and audits, public safety, attorney-client relationships, the minutes of closed meetings, and similar information.
- 2.5 NON-RECORDS -- Under GRAMA, some written, computerized, or other types of materials are not considered records and thus need not be designated, classified, and scheduled for retention or released to the public. Non-records include materials privately owned by an employee prepared for personal use, drafts, and materials protected by copyright.
- 2.6 EXEMPT RECORDS — Some records are not considered subject to the Act and are referred to as exempt. Exempt records are materials to which access is governed by court order, statute, or federal regulation.

3.0 Requests for PUBLIC Records

Requests for PUBLIC records that can be completed by the agency and made available as part of the normal course of business need not be documented as a GRAMA request. Requests for PUBLIC records that are extensive in scope, require additional labor to fulfill, or meet internal agency criteria as a GRAMA request, may be documented and fulfilled under the guidelines in Section 4.0.

4.0 Requests for NON-PUBLIC Records

- 4.1 A person making a records request under GRAMA shall provide the county agency with the following information: requester's name, mailing address, daytime telephone number if available, and a specific description of the requested records.
 - 4.1.1 Agencies receiving requests for records that are retained by another county agency must forward the request to that agency for response by the end of the next business day after the receipt of the request.
- 4.2 Requests Received Other than in Person – Agencies may accept requests and provide access to a record under GRAMA by telephone, fax, e-mail, or other forms of electronic communication provided they are able to verify the identity of the requester and the requester is entitled to the record. (See 5.0 for guidelines on accessing PRIVATE, CONTROLLED, or PROTECTED records).
- 4.3 Exclusions and Considerations – all requests under GRAMA are subject to the following:
 - 4.3.1 Copies of requested records may be withheld until appropriate fees are paid.
 - 4.3.2 County agencies are not required to create a record in response to a request.

- 4.3.3 An agency shall provide a record in a particular format if: the agency is able to do so without unreasonable interference to its normal duties, and the requester agrees to pay additional costs incurred in its development. (See Countywide Records Policy and Procedure 2060, Fees for Duplication of Records.)
- 4.3.4 Nothing in this section requires a county agency to process a record request if the request unreasonably duplicates prior requests from that same person.
- 4.3.5 If a person requests copies of more than 50 pages of PUBLIC records from a county agency, the agency may, at the discretion of the agency administrator or designee:
 - 4.3.5.1 provide the requester with facilities for copying the requested records and require that the requester make the copies if it involves only a paper to paper format) or
 - 4.3.5.2 allow the requester to provide copying equipment provided that such equipment does not damage the documents and personnel to make the copies at the agency's office and waive agency fees for copying records.
- 4.3.6 Nothing in this section requires an agency to provide information from more than one record in the form of a list or similar compiled record; an agency may refuse to provide the information in a list or similar compiled record if:
 - 4.3.6.1 the agency administrator determines that providing the list or similar compiled record would constitute a clearly unwarranted invasion of personal privacy.
- 4.3.7 Agencies shall provide access to an electronic copy of a record in lieu of providing access to it in paper if:
 - 4.3.7.1 the person making the request requests or states a preference for an electronic copy,
 - 4.3.7.2 the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and
 - 4.3.7.3 the electronic copy of the record does not disclose other records that are exempt from disclosure; or may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

5.0 Access to PRIVATE, CONTROLLED or PROTECTED Records

5.1 In general, access to these records is governed by Utah Code, Title 63G, Chapter 2.

- 5.1.1 State law, County ordinance, agency records policies and guidelines permit disclosure of records which have been classified as PRIVATE, CONTROLLED or PROTECTED under circumstances in which the public interest in disclosure of the record outweighs the interest favoring restriction of access. The decision to release these records under such circumstances should be made by the department director, division director, elected official, or their designee. For PRIVATE records refer to Countywide Records Policy and Procedure 2050, Guidelines Regarding Personal Privacy.

- 5.2** Upon request, and after completing the classification process, a county agency shall disclose a PRIVATE record to:
- 5.2.1 the subject of the record;
 - 5.2.2 a parent or legal guardian of an unemancipated minor who is the subject of record;
 - 5.2.3 the legal guardian of a legally incapacitated person who is the subject of the record;
 - 5.2.4 a person who has a valid power of attorney, in accordance with state law, from the subject of the record;
 - 5.2.5 a person who submits a notarized release from the subject of the record or subject's legal representative, dated no more than 90 days prior to record request date, or as otherwise provided for in state statute; or
 - 5.2.6 a person to whom the record must be released pursuant to a court order as provided in GRAMA, Section 63G-2-202 (7) or a legislative subpoena as provided in UCA, Chapter 14, Title 36.
- 5.3** Upon request and after completing the classification process, a county agency shall disclose a CONTROLLED record to:
- 5.3.1 a physician, psychologist, or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than 90 days prior to the record request date and a signed acknowledgment of the terms of disclosure of controlled information as provided below; and
 - 5.3.2 any person to whom the record must be disclosed pursuant to a court order as provided in GRAMA, Section 63G-2-202 (7) or a legislative subpoena as provided in UCA, Chapter 14, Title 36.
- 5.4** A person who receives a record from a county agency in accordance with this policy may not disclose CONTROLLED information from that record to any other person, including the subject of the record.
- 5.5** If there is more than one subject of a PRIVATE or CONTROLLED record, the portion of the record pertaining to another subject shall be segregated from the portion the requester is entitled to inspect prior to releasing the record.
- 5.6** Upon request, and after completing the classification process, a county agency shall disclose a PROTECTED record to:
- 5.6.1 the person who submitted the record;
 - 5.6.2 a person having a power of attorney from all persons, governmental entities or political subdivisions whose interests were intended to be safeguarded by the PROTECTED classification;
 - 5.6.3 a person submitting a notarized release from all persons, governmental entities or political subdivisions whose interests were intended to be protected or from their legal representatives, dated no more than 90 days prior to the record request date; or

5.6.4 a person to whom the record must be released pursuant to a court order as provided in GRAMA, Section 63G-2-202 (7) or a legislative subpoena as provided in UCA, Chapter 14, Title 36.

6.0 Identification

- 6.1 Before releasing a PRIVATE, CONTROLLED or PROTECTED record, the county agency shall obtain evidence of the requester's identity.
- 6.2 Evidence of identification may include, but not be limited to: a Utah Driver's license or Utah state issued identification, a valid non-Utah motor vehicle license, a valid picture identification.

7.0 Access to PRIVATE, CONTROLLED or PROTECTED Records by Court Order

- 7.1 County agencies receiving court orders, including subpoenas to release non-public records, may consult, if necessary, with the District Attorney's Office before releasing the records, unless otherwise provided by agency policy. (See GRAMA, Section 63G-2-201.)
- 7.2 Records released as a result of a court order are not automatically reclassified as PUBLIC records and remain classified as PRIVATE, CONTROLLED or PROTECTED. Access to PRIVATE, CONTROLLED or PROTECTED records pursuant to the specific provisions of the court order shall be subject to the same restraints, procedures and fees as other county records.

8.0 Access to PRIVATE OR CONTROLLED RECORDS for Research Purposes

- 8.1 A county agency may disclose or authorize disclosure of PRIVATE or CONTROLLED records for research purposes. Such action must be approved in writing by the administrator of the county agency. Disclosure may occur, if the agency:
 - 8.1.1 determines the research purpose cannot reasonably be accomplished without use or disclosure of information in personally identifiable form;
 - 8.1.2 determines the proposed research is bona fide and the value of the research outweighs the infringement upon personal privacy;
 - 8.1.3 requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the personal identifiers associated with the records as soon as the purpose of the research project has been accomplished;
 - 8.1.4 prohibits the researcher from disclosing the record in personally identifiable form, except as provided below, or from using the record for purposes other than the research approved by the agency; and
 - 8.1.5 secures from the researcher a written statement of understanding and agreement to the conditions of this section, and an acknowledgement that violation of the terms of this section may result in criminal prosecution under GRAMA, Section 63G-2-801.
- 8.2 A researcher may disclose a record in personally identifiable format for audit or program evaluation purposes only. No subsequent use or disclosure of the record in personally identifiable format will be made by the auditor or evaluator except as provided by this section.

- 8.3** Salt Lake County may require indemnification as a condition of permitting research under this subsection.

9.0 Access to Records Under Copyright Protection

- 9.1** Records (regardless of format) that are copyright protected by Salt Lake County must be available for free inspection during normal business hours.
- 9.2** Duplication of all or part of copyright protected public records is governed by federal statute (US Code, Title 17).
- 9.3** Fees for licensing or duplicating copyright protected records are established by Salt Lake County and must be paid before records can be duplicated or used. (See Countywide Records Policy and Procedure 2060, Fees for Duplication of Records.)
- 9.4** A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest. (See UCA 63G-2-201(10)(a))

10 Sharing Records -- PRIVATE, CONTROLLED, or PROTECTED

- 10.1** An agency may provide PRIVATE, CONTROLLED or PROTECTED records to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:
- 10.1.1 serves as a repository or archives for purposes of historical preservation, administrative maintenance or destruction;
 - 10.1.2 enforces, litigates or investigates civil, criminal or administrative law and records are necessary for a proceeding or an investigation;
 - 10.1.3 is authorized by state statute to conduct an audit and records are needed; or
 - 10.1.4 collects information for pre-sentence, probationary or parole purposes.
- 10.2** An agency may provide PRIVATE, CONTROLLED or PROTECTED records to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance ~~that~~;
- 10.2.1 the records are necessary for the performance of the requester's functions;
 - 10.2.2 the records will be used for a purpose similar to the purpose for which the information in the records was collected or obtained;
 - 10.2.3 the use of the records produces a public benefit that outweighs the person's privacy right protecting the records, and
- 10.3** An agency may provide records that are PROTECTED under Countywide Records Policy and Procedure 2090 (Subsection 8.1 or 8.2) to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if:
- 10.3.1 the records are necessary for performance of the requester's duties and functions;

- 10.3.2 the records will be used for a purpose similar to the purpose for which the information in the records was collected or obtained.
- 10.4 An agency shall provide a PRIVATE, CONTROLLED or PROTECTED record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:
 - 10.4.1 is entitled by law to inspect the record; or
 - 10.4.2 is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds.

11.0 Sharing Records – Special Provisions/Conditions

- 11.1 Before disclosing records under this section to another governmental entity, another state, the United States, or a foreign government, the originating agency shall inform the requester of the record's classification and the restrictions on access.
- 11.2 If the requester is not a governmental entity to which this chapter applies, the originating agency shall obtain the recipient's written agreement by mechanical or electronic transmission that it will abide by all applicable access restrictions unless another statute, federal regulation or interstate agreement otherwise governs the sharing of the records. Access to and use of records will be in accordance to the terms and conditions established in the contract.
- 11.3 An agency may disclose a record to another state, the United States or a foreign government for reasons listed in Subsections without complying with the procedures above, if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.
- 11.4 An agency receiving a record under this section is subject to the same restrictions on disclosure of the material as the originating entity.
- 11.5 Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute or federal regulation controls disclosure.
- 11.6 Records of publicly funded libraries, as described in Countywide Records Policy and Procedure 2090, Subsection 6.1.3, may not be shared under this Section.
- 11.7 Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

12.0 Denial of Requests for Records

- 12.1 If a county agency denies a request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's provided address.
- 12.2 The notice of denial shall contain the following information:
 - 12.2.1 a description of the record or portions of the record to which access was denied (unless the description would disclose records which are not public);

- 12.2.2 citations to the provisions of county ordinance, Utah Code, court rule or order, state statute, federal statute or federal regulation that exempt the record or portions of the record from disclosure;
 - 12.2.3 a statement that the requester has the right to appeal the denial to the Agency Designee, whose name and business address shall also be provided to the requester.
- 12.3** Appeals must be in writing and filed within 30 calendar days after the date of the agency's action. Appeal procedures, explained in Countywide Records Policy and Procedure 2040, shall be made available to the requester.
- 12.4** Unless otherwise required by a court or agency of competent jurisdiction, a county agency may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.
- 12.5** If an agency denies a record request because it does not maintain the record, agency staff must forward a copy of the request to each affected agency by the end of the next business day after the agency has determined it does not have the record. Each agency is then responsible to respond for those records which they maintain. If a request has been submitted to an agency that does not retain the records it must be forwarded to the correct agency by the end of the next business day after the receipt of the request.

13.0 Timeliness of County Response to Record Requests

- 13.1** Agencies must respond to most written requests within ten (10) business days of receipt of the request.
- 13.2** For requests seeking an expedited response, agencies must review each request and notify within five (5) business days the requestor who has not demonstrated that their request benefits the public rather than a person.

Examples of such requests could include:

- 13.2.1 requests from the media;
 - 13.2.2 requests from citizens groups, community councils; and
 - 13.2.3 requests for public hearings, meetings, administrative procedures, etc.
- 13.3** Under certain extraordinary circumstances, an agency may have additional time to process a record request. These circumstances may include:
- 13.3.1 another governmental entity is using the record, in which case, the originating agency shall promptly request that the governmental entity currently in possession return the record;
 - 13.3.2 another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;
 - 13.3.3 the request is for a voluminous quantity of records;
 - 13.3.4 the governmental entity is currently processing a large number of record requests or has a high seasonal workload;

- 13.3.5 the request requires the governmental entity to review a large number of records to locate the requested record;
- 13.3.6 the decision to release a record involves legal issues that require the county to seek legal counsel for the analysis of statutes, rules, ordinances, regulations or case law;
- 13.3.7 segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or
- 13.3.8 segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

13.4 Extraordinary circumstances are subject to the following limitations:

- 13.4.1 For claims under Subsection 13.3.1, the record shall be returned to the originating entity within five (5) business days, unless returning the record would impair the holder's work.
- 13.4.2 For claims under Subsection 13.3.2, the originating agency shall notify the requester when the record would be available for inspection and copying.
- 13.4.3 For claims under Subsections 13.3.3, 13.3.4, and 13.3.5, the agency shall:
 - 13.4.3.1 disclose the records it has located which the requester is entitled to inspect;
 - 13.4.3.2 provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and
 - 13.4.3.3 complete the work and disclose the records the requester is entitled to inspect as soon as reasonably possible.
- 13.4.4 For claims under Subsection 13.3.6, the county agency shall either approve or deny the request within five (5) business days after the date of the original request.
- 13.4.5 For claims under Subsection 13.3.7, the county agency shall fulfill the request within fifteen (15) business days after the date of the original request.
- 13.4.6 For claims under Subsection 13.3.8, the county agency shall complete its programming and disclose the requested records as soon as reasonably possible.

13.5 If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered equivalent to denying access to the records.

14.0 Prohibited Actions – Penalties

County employees may be subject to disciplinary action and criminal prosecution for either improperly providing access or failing to provide proper access to records under the provisions of state law, county ordinance and these policies. (See GRAMA, Utah Code 63G-2-801 and County Ordinance - Records Management, Section 2.82.130.)

15.0 Forms

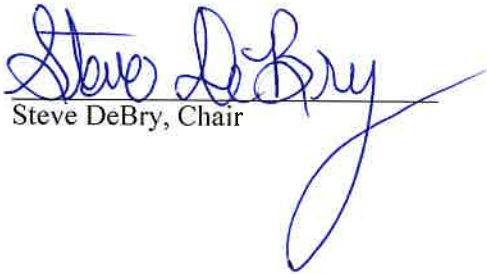
Agencies may use forms for processing GRAMA records requests created by Records Management & Archives which are available on their website or by request. The following forms are available for use: GRAMA Request Form, Third Party Release Form, GRAMA Notice of Records Request Denial and Denial Letter Template. Agencies that wish to use their own forms must have them reviewed by Records Management & Archives prior to use.

16.0 Classification of Records Requests

All written records requests shall be classified as PUBLIC records according to established retention guidelines.

APPROVED and PASSED this _____ day of _____, 2017.

SALT LAKE COUNTY COUNCIL


Steve DeBry, Chair

ATTEST:


SHERRIE SWENSEN, County Clerk

APPROVED AS TO FORM:

 31 Oct 2017
District Attorney's Office Date