

UINTAH SCHOOL DISTRICT POLICY ACTION REVIEW

1st Reading	5/8/07	New	X
2nd Reading	5/8/07	Revised	
Approved	5/8/07	Substitute	

003.0800 PUBLIC RECORDS: GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT (“GRAMA”) POLICY

NEW POLICY

1.0 POLICY PURPOSE

This policy is adopted pursuant to the Government Records Access and Management Act Utah Code Ann. (1992) §63-2-701 (“GRAMA”) and applies to District records relating to information practices, including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of documents.

2.0 APPROPRIATE REQUESTOR OF RECORDS

- 2.1 A person may request access to the District’s records if that person meets the requirements set forth in this policy and submits a written request containing the requestor’s name, mailing address, daytime telephone number, a specific description of the records requested and showing the requestor’s status as one entitled to access to such records. Every person has the right to inspect a public record free of charge and the right to copy a public record in compliance with the terms of this policy. A “public record” means any record that is not private, controlled or protected.
- 2.2 For the purposed of this policy, “records” do not include: temporary drafts or other materials prepared for the originators’ personal use or for the personal use of another, personal notes, notes kept in personal journals, diaries or other day timers, notes of informal observations, notes of evaluations or materials owned by the originator in his or her private capacity.

Utah Code Ann. §63-2-204(1)

3.0 PUBLIC RECORDS

- 3.1 Public records shall include official minutes, actions and decisions of the Board of Education and District Administration; official District and school policies, contracts accounts, employment records of former and current employees and officers to the extent they disclose only names, gender, job titles, job descriptions, business address, business telephone number, gross salaries, working hours and dates of employment; or any other record properly identified as public in accordance with Utah Code Ann. §63-2-301 unless the record involves information which is classified as private, controlled or protected. Public records shall also include formal charges or disciplinary actions against a current or former employee of the disciplinary action has been completed and all time periods for

administrative appeal have expired; and the charges on which the disciplinary action was based were sustained.

Utah Code Ann. §63-2-301

- 3.2 In addition, each school shall maintain a list of “teachers” who currently hold a level 1, 2, or 3 license and “associate teachers” who do not currently hold a level 1, 2, or 3 license but are permitted to teach in the school under another authorization. This list shall be available for review by any person upon request.

Utah Code Ann. §63-6-111

4.0 AVAILABILITY OF PUBLIC RECORDS

- 4.1 Public records shall be open for public inspection during regular office hours.

5.0 PRIVATE DOCUMENTS

- 5.1 The District hereby designates all documents identified in Utah Code Ann. § 63-2-302(a) through (e) and 302(2) as “private data,” including specifically but not limited to:

- 5.1.1 All private personnel files, applications, nominations, or recommendations for employment, advancement or appointment;
- 5.1.2 Any formal employee evaluation signed by the employee;
- 5.1.3 Records showing an individual’s home address, home telephone number, social security number, insurance coverage, marital status, payroll deductions, race, religion or disabilities or military status;
- 5.1.4 Records touching upon an individual’s eligibility for unemployment benefits, social services, or welfare benefits;
- 5.1.5 Records touching upon an individual’s personal finances;
- 5.1.6 Records touching upon an individual’s medical or psychological condition, past or present; or
- 5.1.7 Any record the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Utah Code Ann. § 63-2-302

6.0 STUDENT RECORDS

- 6.1 All student records are designated as “education records” and the disclosure of such education records is not governed under GRAMA but under 20 U.S.C §1232 (g) and 34 C.F.R. §99 et seq. and 34 C.F.R. §300 et seq. The District may not release information related to educational records without parental consent, except as provided in the Family Educational Rights and Privacy Act (FERPA). *See* Policy FE: Student Records.

- 6.2 Availability of Private Records

- 6.2.1 Upon appropriate written request from the subject of the records, or the parent or legal guardian of an unemancipated minor who is the subject of the records, the District shall disclose private records and other private data only to the subject of the record, or the parent or legal guardian of an unemancipated minor who is the subject of the private record, or the legal guardian of a legally incapacitated individual who is the subject of the private record, or

any individual who has a power of attorney from the subject of the record, or who submits a notarized release from the subject of the record, or his legal representative which is dated not more than ninety (90) days before the date the request is made, or pursuant to an order of a court of competent jurisdiction to disclose such record.

Utah Code Ann. § 63-2-202(1)

7.0 CONTROLLED RECORDS

- 7.1 The record contains medical, psychiatric, or psychological data about an individual;
- 7.2 The governmental entity reasonably believes that:
 - 7.2.1 Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
 - 7.2.2 Releasing the information would constitute a violation of normal professional practice and medical ethics; and
 - 7.2.3 The governmental entity has properly classified the record.
- 7.3 Records showing medical or psychological tests of a student may be disclosed to persons within the school district who are members of that student's individual education program (IEP) team.

Utah Code Ann. §63-2-303

7.4 Availability Of Controlled Records

Upon proper request, the District shall disclose a controlled record to:

- 7.4.1 A physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:
 - 7.4.1.1 A release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and
 - 7.4.1.2 A signed acknowledgement of the terms of disclosure of controlled information as provided by Subsection (2)(b); and
- 7.4.2 Any person to whom the record must be disclosed pursuant to a court order.

Utah Code Ann. §63-2-202(2)(a)

8.0 PROTECTED RECORDS

- 8.1 The District hereby designates as "protected data" all records identified in Utah Code Ann. § 63-2-304, including but no limited to:
 - 8.1.1 Any document disclosing a trade secret;
 - 8.1.2 Test questions or answers;
 - 8.1.3 Any document the disclosure of which may give an unfair advantage to a person or entity proposing to enter into a contract;
 - 8.1.4 Records touching upon the value of real property owned by the District which may be considered for sale;
 - 8.1.5 Any record that may jeopardize the life or safety of an individual if disclosed;

- 8.1.6 Any record that would violate the normal professional practice or medical ethics;
- 8.1.7 Any records which may jeopardize the security of District property or programs;
- 8.1.8 Records touching upon audits, audit techniques, procedures and policies;
- 8.1.9 Records touching upon issues of actual or potential litigation;
- 8.1.10 Records touching upon collective bargaining strategy;
- 8.1.11 Records touching upon occurrences covered by the Division of Risk Management;
- 8.1.12 Records touching upon deliberations of the Board of Education acting in a judicial or review of prior decision capacity;
- 8.1.13 Records touching upon formal evaluations not signed by the employee, appointment, retention or promotion of employees, records generated in a meeting closed in accordance with the Utah Open and Public Meetings Act.
- 8.1.14 Records not placed in an employee's personnel file which are maintained by individual supervisors or administrators.
- 8.1.15 Materials to which access must be limited for purposed of securing or maintaining the district's proprietary protection of intellectual property rights including patents, copyrights, trademarks and trade secrets.

Utah Code Ann. §63-2-304

8.2 AVAILABILITY OF PROTECTED RECORDS

Upon proper request, the District shall disclose a protected record to:

- 8.2.1 The person who submitted the record;
- 8.2.2 Any other individual who:
 - 8.2.2.1 Has a power of attorney from all persons, governmental entities, or political subdivision whose interests were sought to be protected by the protected classification; or
 - 8.2.2.2 Submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected buy the protected classification or from their legal representatives dated no more than ninety (90) days prior to the date the request is made;
- 8.2.3 Any person to whom the record must be provided pursuant to a court order.

Utah Code Ann. § 63-2-202(4)

- 8.3 Exempt records include student records which are protected by the Family Educational Rights and Privacy Act.

9.0 COPYRIGHTED OR PATENTED MATERIALS

Any document which is copyrighted, either by formal filing under federal copyright laws or by informal claim of copyright, or which is covered by a patent, trademark or other protected designation, shall not be copied or provided to any person without an order of a court of competent jurisdiction ordering such disclosure or written permission from the author of the record.

10.0 ACCESS TO DISTRICT RECORDS

- 10.1 A request to view District records should be addressed to the appropriate records officer during regular business hours. Individuals requesting to view records classified as “Private,” “Controlled” or “Protected” shall be required to submit their request in writing. Requestors must prove their right of access to the records through personal identification, written release from the subject of the record, power of attorney, court order or other appropriate means.
 - 10.2 The records officer shall determine whether access to the requested records is to be granted or denied.
 - 10.2.1 If the request is granted, the record shall be provided as soon as possible and not more than ten (10) working days from the date the request is received unless extraordinary circumstances as identified in Utah Code Ann. §63-2-204 require a longer period of time.
 - 10.2.2 If the request is denied, the records officer must specify the reason in writing and the requestor shall be informed of the right to appeal.
 - 10.2.3 If the records are not maintained by the District, inform the requestor.
- Utah Code Ann. §63-2-204

11.0 SHARING RECORDS

- 11.1 The District may provide a record that is private, controlled, or protected to another governmental entity, a government managed corporation, a political subdivision, the federal government, or another state if the requesting entity:
 - 11.1.1 Serves as a repository or archives for purpose of historical preservation, administrative maintenance, or destruction;
 - 11.1.2 Enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;
 - 11.1.3 Is authorized by the state statute to conduct an audit and the record is needed for that purpose; or
 - 11.1.4 Is one that collects information for pre-sentence, probationary, or parole purposes.
- 11.2 The District may 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 provides written assurance:
 - 11.2.1 That the record or record series is necessary to the performance of the governmental entity’s duties and functions;
 - 11.2.2 That the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and
 - 11.2.3 That the use of the record or record series produces a public benefit that outweighs the individual privacy right that protects the record or record series.

Utah Code Ann. §63-2-206

- 11.3 A governmental entity, including the District, that receives a record pursuant to this policy, Record Sharing, or Utah Code Ann. §63-2-206, is prohibited from providing that record pursuant to any records request. The requestor must request the record from the original source.

Utah Code Ann. §63-2-204(2)

12.0 FEES FOR SEARCH AND OR DUPLICATION OF RECORDS

- 12.1 A fee shall be charged for the District's actual cost of duplicating a requested record and also for the personnel time in compiling and obtaining the record as follows:
 - 12.1.1 (\$.05) per page for each single sided copy;
 - 12.1.2 (\$.08) per page for each double sided copy; and
 - 12.1.3 (\$14.38) per hour for the time spent by any District personnel searching for and compiling documents for copying.
- 12.2 However, no fee may be charged for:
 - 12.2.1 Making a record available to be viewed in the same context that the record is kept in the regular course of carrying on business to determine whether the record is subject to disclosure; or
 - 12.2.2 The requestor's inspecting the record.
- 12.3 A fee shall be charged for the District's actual cost of mailing a requested record via certified mail through the United States Postal Service.
- 12.4 The District shall require all past fees of the requestor to be paid before copying if fees are expected to exceed \$50.00 or if the requestor has not paid fees from a previous request.

13.0 PROCEDURES

- 13.1 Each requestor shall submit a written request specifically identifying those documents requested. The request shall specifically state where:
 - 13.1.1 The documents sought are to be copied;
 - 13.1.2 The documents sought are to be identified to determine whether they are subject to disclosure; or
 - 13.1.3 The requestor is to be allowed to inspect a specific record.
- 13.2 In the event that document is specifically identified and designated for copying, the requestor shall submit sufficient funds with the written request to pay for all requested copies.

14.0 APPEALS PROCESS

- 14.1 Appeals to the District Administration: The requestor shall file a written request for a hearing with the District Administrative Services at least ten (10) working days prior to the desired hearing date. The requestor shall submit an appeal of the request to the Board of Education of the District in writing which specifically states the documents which have been designated for copying or for inspection, the date of the request, the date of the denial of the request, all circumstances surrounding the denial, the reasons stated for the denial, and attaching a copy of any funds which have been submitted to pay for copies if copies have been requested.
- 14.2 Upon receiving the request, the Director of Administrative Services shall schedule a mutually convenient time, date and location for the hearing and

notify all parties, but no later than thirty (30) days after the requestor has submitted the appeal to the Board of Education.

- 14.3 The requestor has the right to be represented by legal counsel at the hearing. If the requestor is to be represented by legal counsel, the Administration must be notified at least ten (10) working days in advance of the hearing and a list of all persons to be called and documents to be submitted into evidence shall be given to the District. If the requestor has legal counsel present at the hearing the Administration may also be represented by legal counsel.
 - 14.4 Within ten (10) working days after the hearing, the Superintendent or his/her designee shall notify the requestor in writing of the recommended action.
 - 14.5 If the requestor is not satisfied with the recommended action, an appeal may be filed with the Board of Education.
 - 14.6 Appeals to the Board of Education shall follow the same procedures and time lines outlined above.
 - 14.7 If the Board upholds the action recommended in the hearing with the District Administration, the requestor has the right to appeal the Board's decision to a court of competent jurisdiction.
- 15.0 **RETENTION OF DISTRICT RECORDS**
- 15.1 The District shall adhere to the general schedule for records retention approved by the State Records Committee. Records which are not covered by the general schedule shall be submitted to the State Records Committee for scheduling.
- 16.0 **RIGHTS TO COPIES**
- 16.1 If an appropriate requestor requests to have copies of more than fifty (50) pages of records, the District may in its sole discretion provide the requestor with facilities to make copies and require the requestor to make copies him or herself at his or her own expense.
Utah Code Ann. §63-2-201(b)
- 17.0 **AMENDMENT OF RECORDS**
- 17.1 An individual may contest the accuracy or completeness of any public, or private, or protected record concerning him/her by requesting the School District to amend the record. However, this provision does not affect the right of access to private or protected records. This provision does not apply to records relating to title of real property, medical records, judicial case files, or any other records that the School District determines must be maintained in their original form to protect the public interest of preserve the integrity of the record keeping system.
- 18.0 **REQUEST TO AMEND**
- The request to amend shall contain the requestor's name, mailing address, daytime telephone number and a brief description explaining why the specific record should be amended.
- 19.0 **RESPONSE**
- The School District shall issue an order either approving or disapproving the request to amend no later than thirty (30) days after the request is made. The order

shall state reasons for the decisions. If the request is denied, the requestor may submit a written statement contesting the information in the record. The School District shall place the statement with the record, if possible, and disclose the statement whenever the contested record is disclosed.

20.0 PRIVILEGED DOCUMENT

The District reserves the right to claim a privilege with respect to all documents which are subject to attorney work product, attorney-client, physician-patient, psychiatrist-patient or other statutory privilege.

21.0 RECORDS FORMAT

The District shall have no obligation to modify the format of records containing the information requested, to either extract or compile requested information. Records containing the requested information will be copied in existing format.

22.0 NOTICE TO PROVIDER OF INFORMATION

22.1 The District shall post a notice and explain upon request to a person who is asked to furnish information that could be classified as a private or controlled record:

22.1.1 The reasons the person is asked to furnish information that could be classified as a private or controlled record;

22.1.2 The intended uses of the information;

22.1.3 The consequences for refusing to provide the information; and

22.1.4 The reasons and circumstances under which the information may be shared with or provided to other persons or governmental agencies.

Utah Code Ann. §63-2-601(2)