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February 19, 2015

Records Custodian
Office of the Utah State Auditor
Utah State Capitol Complex
East Office Building STE E310
Salt Lake City UT 84114-2310

Re: Request for a Record Pursuant to Utah Government Records Access and Management Act

Dear Sir or Madam:

Please provide to me all correspondence, communication, and documents related to the decision to conduct a performance audit as described in the attached letter, dated February 10, 2015:

“...conducting a performance audit to help ensure the safety of vulnerable populations, such as children... auditors will conduct test work to identify potential risks that may exist due to the documented history of individuals employed by school districts and other entities charged with safeguarding children...”

Please note, I desire copies of the records. I understand I may be responsible for fees associated with copying charges to research charges as permitted by Utah Code Ann. §63G-2-203. As such, I preauthorize costs up to \$100.00 (one hundred dollars) in conformance with the government entity's policy as determined by ordinance or written formal policy adopted by the governing body.

I am also requesting you waive copy costs pursuant to Utah Code Ann. §63G-2-203(4) because releasing these records primarily benefits the public rather than a person because it is a request for a third party (school district) to release private information (social security numbers) belonging to another, its employees without their knowledge and consent.

This request is submitted under the authority of Utah Code Ann. §63G-2-101 et. seq., (GRAMA).

Person making the request: Tracey M. Watson, General Counsel, Utah Education Association
Mailing Address: 875 Pontiac Dr. Ste 3, Salt Lake City, UT 84107
Daytime Telephone Number: 801-266-4461 x 110
Date request was mailed: February 19, 2015

Sincerely,
UTAH EDUCATION ASSOCIATION

Tracey M. Watson
General Counsel

This form is meant to comply with the minimum statutory requirements for access to government records. The details of these statutory requirements are found in Chapter 63-2, Utah Code Annotated. The provisions of the Government Records Access and Management Act (GRAMA) are lengthy and complicated. This summary is only meant to provide some highlights. (References in parentheses are to sections of the Utah Code Annotated.)

Intent: GRAMA is intended, among other goals, to promote the public's right of easy and reasonable access to unrestricted public records and to favor public access when, in the application of the law, countervailing interests are of equal weight. (§63-2-102)

Access: Every person is entitled to review and obtain copies of any public document. (§63-2-201(1)).

Time: A request for record access or copies shall be responded to as soon as reasonably possible -- no later than 10 business days, or 5 business days if a request benefits the public rather than the requesting individual. (§63-2-204(3)(a))

Charges: Records can be inspected free of charge. (§63-2-201(1)). A reasonable charge can be assessed for copies if that charge is adopted by official policy. (§63-2-203(1)). The actual cost to compile a record in a form other than that normally maintained may be charged. (§63-2-203(2)). No charge can be assessed for the time taken to review a record to determine if it is public or for inspecting the record. (§63-2-203(5)). No charge is to be made if the record directly relates to a person's legal rights and that person cannot afford to pay the fee. (§63-2-203(4)). The Utah Courts have held that no charge for compilation of a record is to be made without previous notice of the charge and an offer to allow the requestor to compile the record himself. If the agency compiles the record as a preferred way to provide it, rather than from necessity, no charge is to be made. Graham v. Davis County Solid Waste Dist. 1999 UT Ct App 136 at ¶ 27.

Public documents - Every document is public unless private, controlled or protected: (§63-2-201(2))

Private documents - Generally relate to individuals and their private interests, such as eligibility for benefits, medical history, employment, library circulation, etc. (§63-2-302).

Controlled documents - mainly medical records of individuals shared to a limited audience. (§63-2-303)

Protected documents - Generally trade secrets, financial and commercial information for companies, test questions, appraisals for future property transactions, investigations, litigation documents not available through discovery, privileged communications from the agency's attorney, drafts, minutes and notes of closed meetings, and other documents that may compromise a legitimate state or private interest. (§63-2-304)

Business Confidentiality: If a record provided by a business to an agency is desired to be protected, the business must provide a claim of confidentiality and state the reasons for the restricted access. The agency can still classify the record as public if it notifies the business. (§63-2-308)

Not a record: temporary drafts, privately owned documents; calendars and notes; etc. (§63-2-103(18))

Denial: If access is denied, the agency shall provide a notice of denial, including a description of the record or portion of record to which access is denied, citation to the statute allowing the denial, and a description of the process to appeal. (§63-2-205(2))

Destruction: If access to a record is denied, that record is not to be destroyed or given to another agency before the appeal period has passed. (§63-2-205(3))

Other agencies: Non-public records can be provided to another government agency if that agency enforces, litigates or investigates civil, criminal or administrative law and in other instances. (§63-2-206(1)).

Appeals: Allowed within 30 days of a denial of access or other determination adverse to the applicant. The applicant or anyone else who is aggrieved by the denial (such as the media) can file a notice of appeal to the chief administrative officer of the government entity. (§63-2-401). An appeal of a final local or agency GRAMA decision can be requested of the state records committee or the district court. (§63-2-402).

Penalties: It is a class B misdemeanor to knowingly disclose records that should not be disclosed, or to gain access to records that should not be disclosed by false pretenses, bribery, or theft, or to intentionally refuse to release a record which is legally required to be released. (§63-2-801)

Attorneys Fees: Can be ordered against the agency if a person who appeals a denial of access substantially prevails in legal action. (§63-2-802)

Information:

Utah State Archives Records Committee (801) 538-3012 or State Agency Counsel Division, Office of the Attorney General (801) 366-0353.

This form provided by the Utah State Property Rights Ombudsman. For more information, call TOLL FREE 1-877-882-4662 or e-mail to ppombud@aol.com.



OFFICE OF THE
UTAH STATE AUDITOR

February 10, 2015

Michelle Beus
Legal Issues Specialist
Davis School District
45 East State Street
Farmington, Utah 84025-0588

Dear Ms. Beus,

The Office of the Utah State Auditor ("Office") is conducting a performance audit to help ensure the safety of vulnerable populations, such as children. As part of the audit, auditors will conduct test work to identify potential risks that may exist due to the documented history of individuals employed by school districts and other entities charged with safeguarding children. In order to conduct test work accurately and thoroughly, we request that the Davis School District ("District") provide the Office with the first name, last name, social security number, and job position for all District employees.

The Office "... is subject to the same restrictions on disclosure of the record as [the District]" (*Utah Code 63G-2-206(6)(a)*). All private or protected documents or information provided by the District to the Office will be protected and will not be disclosed by the Office to any party.

Please let me know if you have any questions.

Kind Regards,

A handwritten signature in black ink, appearing to read "David S. Pulsipher".

David S. Pulsipher
Performance Audit Director