



OFFICE OF THE GOVERNOR OF UTAH

Record Management Policy

Adopted May 3, 2023

Part 1 General Provisions

Section G-101. Purpose.

(1) This policy is adopted pursuant to Utah Code § 63G-2-704, which broadly gives the governor the authority to establish policies to “handle requests for classification, designation, fees, access, denials, segregation, appeals to the chief administrative officer, management, retention, and amendment of records.” This policy also establishes a process for vexatious requesters in accordance with Utah Code § 63G-2-704(3)(b).

(2) This policy supersedes and replaces any previous policy or retention schedule relating to records of the office of the governor (the “Office”).

Section G-102. Definitions.

As used in this policy:

(1)(a) “Access denial” means the Office’s denial of access to a record:

- (i) based on the record’s classification as private, controlled, or protected;
- (ii) because access to the record is limited pursuant to a court order or rule, another state statute, or federal statute or regulation, or as otherwise noted in Utah Code § 63G-2-201(3)(b); or
- (iii) based on the Office’s nonresponse within the specified time period, as referenced in Subsection G-204.

(b) “Access denial” does not include:

- (i) the Office’s failure to provide access to a record because:
 - (A) the Office does not retain the record;
 - (B) the Office does not retain a record that is responsive to the request; or
 - (C) under GRAMA or this policy, the Office is not required to respond to or fill the record request;
- (ii) the Office’s rejection of a record request for failure to pay an outstanding response fee; or
- (iii) the denial of a fee waiver request or the denial of a fee waiver denial override request.

(2) "Appeal" means the process described in Section G-401 in which a requester seeks review of a records officer's access denial.

(3) "Chief administrative officer" means the chief of staff to the governor or the chief of staff's designee.

(4) "Controlled" means a classification given to a record based on Utah Code § 63G-2-304.

(5) "Fee waiver denial override request" means a request under Subsection G-302(9).

(6) "Fee waiver request" means a request under Section G-302 for the waiver of a response fee.

(7) "Filing fee" means the fee charged to respond to a request of an out-of-state requester under Appendix B.

(8) "Governmental entity" means the same as that term is defined in Utah Code § 63G-2-103.

(9) "GRAMA" means Utah Code Title 63G, Chapter 2, Government Records Access and Management Act.

(10) "Individual" means a human being.

(11) "In-state request" means a record request submitted by an in-state resident.

(12) "Nonresponse" means a records officer's lack of response to a record request within the time period in Subsection G-204 or the chief administrative officer's lack of response to an appeal within the times noted in Subsection G-402.

(13) (a) "Office" means the office of the governor, including the governor and the governor's staff.

(b) "Office" does not include:

(i) the lieutenant governor or the office of the lieutenant governor;

(ii) the Governor's Office of Planning and Budget; or

(iii) the Commission on Criminal and Juvenile Justice.

(14) "Out-of-state request" means a record request submitted by a person other than an in-state resident.

(15) "Person" means the same as that term is defined in Utah Code § 63G-2-103.

(16) "Private" means a classification given to a record based on Utah Code § 63G-2-302 or 63G-2-303 or other applicable law.

(17) "Protected" means a classification given to a record based on Utah Code § 63G-2-305 or other applicable law.

(18) "Public" means, in the context of a record, a classification given to a record that is not classified as controlled, private, or protected and access to which is not limited pursuant to a court order or rule, another state statute, or federal statute or regulation, or by Utah Code § 63G-2-201(3)(b).

(19) "Record" means the same as that term is defined in Utah Code § 63G-2-103.

(20) "Record request" means a written request seeking access to a record.

(21) "Records officer" means an individual appointed by the chief administrative officer to care for, maintain, schedule, designate, classify, dispose of, and preserve records for the governor's office.

(22) “Requester” means a person who submits a record request, fee waiver denial override request, or a notice of appeal as described in this policy.

(23) “Response fee” means a fee described in Appendix B, other than a filing fee, that the Office is authorized or required to charge a requester for responding to a record request.

Section G-103. Record classification.

(1) In accordance with GRAMA and this policy, the Office shall designate and classify records as public, private, controlled, or protected.

(2) Consistent with Utah Code § 63G-2-307, the Office may classify, reclassify, or redesignate records at any time. The Office is not required to classify a record until access to the record is requested.

Section G-104. Record retention.

(1) The retention schedule attached as Appendix A is incorporated into this policy and governs the Office’s retention and disposal of records.

(2)(a) A specified period of time provided for a record in the retention schedule means that the Office:

- (i) is required to retain the record for the specified period of time; and
- (ii) may dispose of the record after the expiration of that period of time.

(b) The Office:

(i) is not required to dispose of a record upon the expiration of the specified period of time provided for that record in the retention schedule, unless otherwise required by law; and

(ii) may continue to retain the record for as long as the Office has an administrative need for the record.

(3) The Office may retain records by any means, including electronic, that allows access to and retrieval of the record in essentially its original format.

Section G-105. When submissions are considered received.

(1) Subject to Subsection (2), a record request, notice of appeal, or fee waiver denial override request is considered submitted on the day it is received by the records officer or chief administrative officer, as applicable.

(2) A record request, notice of appeal, or fee waiver denial override request submitted on a day that is not a business day or after 5:00 pm on a business day is considered to be submitted on the next business day.

Part 2 Record Requests

Section G-201. Written record requests.

(1) The Office may provide a person access to a record as provided in this policy only if the person submits a written request to the Office requesting access to the record.

(2) Notwithstanding Subsection (1), the Office may provide a person access to a public

record without a written request if a records officer or the chief administrative officer concludes that the Office's convenience and efficiency are best served by providing access to the record without a written request.

(3) Nothing in this policy may be construed to limit the routine sharing of documents and information in the normal course of business conducted by the Office.

Section G-202. Record request requirements.

(1) The following requirements apply in addition to the requirements listed in Utah Code § 63G-2-204.

(2) A person making a records request shall submit the request to a records officer.

(3)(a) The Office shall require a person submitting a record request that the person intends to be an in-state request to certify that the person:

(i) is an in-state resident; and

(ii) submits the record request on the person's own behalf and not on behalf of or for a person who is not an in-state resident.

(b) A record request that does not contain the certification under Subsection (3)(a) is considered to be an out-of-state request.

Section G-203. Reserved.

Section G-204. Responding to a record request.

The Office shall follow the process outlined in GRAMA, including Utah Code § 63G-2-204, in responding to a record request, except as otherwise provided in this policy.

Section G-205. Record access denials.

The Office shall follow the process outlined in GRAMA, including Utah Code § 63G-2-205, in addressing record access denials, except as otherwise provided in this policy.

**Part 3
Fees**

Section G-301. Fee requirements.

(1)(a) Subject to Subsection (1)(b), and in addition to any applicable filing fee required under the fee schedule in Appendix B, the Office shall charge a requester a response fee, according to the fee schedule in Appendix B, for responding to the requester's record request.

(b) The Office may not charge a response fee for responding to a request if, in responding to the record request, the Office does not spend staff time exceeding fifteen (15) minutes and will not incur any other costs or will incur only nominal costs.

(2) The fee schedule in Appendix B is incorporated into this policy.

(3) If the Office charges a response fee, the Office may:

(a) estimate the amount of the response fee;

(b) notify the requester of the amount of the estimated response fee; and
(c)(i) require prepayment of the estimated response fee and filing fee if applicable, if the total amount exceeds \$80; or

(ii) request authorization from the requester to continue responding to the request, given the amount of the estimated fees.

(4) The applicable time period for responding to a records request in Subsection G-204 is suspended for a period of time that:

(a) begins on the day on which the records officer:

(i) sends notice of a response fee to the requester under Subsection (3);

(ii) notifies a requester under Subsection G-301(6) of an additional response fee; and

(b) ends at the end of the day on which:

(i) the records officer receives payment of the response fee or additional response fee;

(ii) the records officer receives authorization to continue responding to the request; or

(iii) the records officer or chief administrative officer grants a fee waiver request under Section G-302 waiving the required response fee or additional response fee.

(5)(a) In estimating the amount of the response fee to charge a requester, the Office may conduct or direct a preliminary search for and review of records to gain a general understanding of the volume of records likely to be responsive to the record request and to estimate the amount of staff time that will likely be required to identify, gather, classify, and segregate records in response to the record request.

(b) The Office may include staff time spent in a preliminary search for and review of records under Subsection (4)(a) in the calculation of the response fee to charge a requester.

(6)(a) If the amount a requester pays pursuant to an estimated response fee under this section is inadequate to cover the actual staff time spent and costs incurred responding to a record request, the Office may, before continuing to work on responding to the record request, require a requester to pay an additional response fee to cover the estimated additional staff time and costs.

(b) If the estimated response fee a requester pays exceeds the amount needed to cover actual staff time spent and costs incurred in responding to a record request, the Office shall promptly refund the excess response fee to the requester.

(7)(a) A requester is considered to have withdrawn the requester's record request if the requester fails to pay the the estimated response fee within:

(i) 10 business days after the Office notifies the requester of the initial estimated response fee under Subsection (3)(b); or

(ii) if later than the period specified in Subsection (7)(a)(i), 10 business days after, as applicable:

(A) the denial of a fee waiver request under Section G-302; or

(B) the chief administrative officer declines to override the denial of a fee waiver request under Subsection G-302(9).

(8) The Office may deny a records request from a requester that has failed to pay an outstanding response fee or filing fee.

(9) With respect to an action of the Office under this section, the Office may act through:

- (a) a records officer, in the context of the records officer's consideration of a records request; or
- (b) the chief administrative officer.

Section G-302. Fee waiver.

- (1) A records officer may grant a fee waiver request only as provided in this section.
- (2) A person who has submitted a record request and has been charged a response fee under Section G-301 may request a waiver of the response fee by submitting a written fee waiver request to the records officer.
- (3)(a) A fee waiver request shall contain:
 - (i) the name and mailing address of the requester;
 - (ii) if the fee waiver request is submitted by an entity, the name of the entity's contact individual;
 - (iii) the daytime telephone number of the requester or, if the requester is an entity, the daytime telephone number of the entity's contact individual;
 - (iv) the email address of the requester or, for a fee waiver request submitted by an entity, the email address of the entity's contact individual, if the requester indicates that the requester is willing to accept communications regarding the fee waiver request by email;
 - (v) a clear reference to the requester's record request that allows the records request for which a fee waiver is being requested to be readily identified; and
 - (vi) an explanation of the circumstances that the requester believes justify a waiver of the response fee.
- (b) A request for a fee waiver of a response fee that does not comply with the requirements of Subsection (3)(a) is invalid and without effect.
- (4) A fee waiver request that complies with the requirements of Subsection (3)(a) and is submitted before the Office charges a response fee under Section G-301 is considered submitted on the day that the Office notifies the requester of the amount of the estimated response fee under Section G-301.
- (5) A records officer may partially or fully grant a fee waiver request and waive some or all of a response fee only if the requester demonstrates to the satisfaction of the records officer that:
 - (a) in light of all applicable circumstances, requiring the requester to pay the response fee would place an exceptional burden on the requester;
 - (b) the benefit to the Utah public derived from responding to the record request and providing access to the requested records without payment of the response fee substantially outweighs the interest in recovering the response fee to cover some of the cost to the public of the Office responding to the record request; or
 - (c) there are other significant circumstances justifying a waiver.
- (6) A record officer's lack of response to a fee waiver request within five business days after the fee waiver request is submitted constitutes a denial of the fee waiver request.
- (7) A denial of a fee waiver request is not a record access denial.
- (8) Unless overridden by the chief administrative officer as provided in Subsection (9), a records officer's denial of a fee waiver request stands and is final.

(9)(a) A requester whose fee waiver request has been denied may submit a written fee waiver denial override request to the chief administrative officer within five (5) business days after the denial of the fee waiver request.

(b) A fee waiver denial override request under Subsection (9)(a) is considered declined and the denial of the fee waiver request stands unless the chief administrative officer overrides the denial within five business days after the request is submitted.

(c) After a timely fee waiver denial override request is submitted under Subsection (9)(a), the chief administrative officer may:

(i) override the denial and grant some or all of the fee waiver request, based on the requester's demonstration under Subsection (5);

(ii) affirmatively decline the request; or

(iii) choose not to respond to the request.

(d) If a fee waiver denial override request is declined or considered declined under this Subsection (9):

(i) the denial of the fee waiver request stands and is final; and

(ii) the chief administrative officer's action to decline or choose not to respond to the fee waiver denial override request is final.

Part 4

Appeals to the Chief Administrative Officer

Section G-401. Appeal requirements.

(1)(a) A requester may appeal a records officer's access denial if the requester submits a notice of appeal to the chief administrative officer as provided in this section.

(b) An attempt to appeal an action or inaction that is not an access denial is invalid and without effect.

(2) The chief administrative officer may not accept a notice of appeal or conduct a review of an access denial unless:

(a) the notice of appeal is submitted to the chief administrative officer no later than 15 business days after, as applicable:

(i) the date of the access denial; or

(ii) the date that the records officer is considered to have not responded to the request under Subsection G-204; and

(b) the appeal complies with the other requirements of this section.

(3) A notice of appeal shall:

(a) contain:

(i) the name, mailing address, and daytime telephone number of the requester;

(ii) if the appeal is submitted by an entity, the name of the entity's contact individual;

(iii) the email address of the requester or, for an appeal submitted by an entity, the email address of the entity's contact individual, if the requester indicates that the requester is willing to accept communications regarding the appeal by email;

(iv) an explanation of the basis of the appeal; and

(v) a statement of the action the requester wants the chief administrative officer to take;
and

(b) be accompanied by a copy of:

(i) the record request as to which the access denial relates; and

(ii)(A) the records officer's written response that contains the access denial that is the subject of the appeal, if the records officer provided a written response denying access to the record; or

(B) a statement that the records officer is considered to have not responded to the record request under Subsection G-204, including the date that the records officer is considered to have not responded, if the requester seeks review of a records request nonresponse.

(4) If an appeal based on a record request nonresponse is submitted before the expiration of the time for the records officer to respond to the record request under Subsection G-204, the appeal is invalid and without effect.

Section G-402. Chief administrative officer response to an appeal.

(1) The chief administrative officer who receives a notice of appeal that complies with Section G-401 shall review the records officer's access denial and provide a written response to the requester as provided in this section.

(2)(a) The chief administrative officer shall provide a written response to a notice of appeal that complies with the requirements of Section G-401 no later than:

(i) 20 business days after receiving the notice of appeal if the appeal is related to an in-state request, or;

(ii) 60 calendar days after receiving the notice of appeal if the appeal is related to an out-of-state request.

(b) If the chief administrative officer fails to provide a written response to an appeal of an access denial within the time specified in Subsection (2)(a), the failure is a nonresponse equivalent to a decision affirming the access denial.

(3)(a) In responding to an appeal, the chief administrative officer may:

(i) affirm the access denial in whole or in part; or

(ii) grant the appeal in whole or in part and provide some or all of the records subject to the access denial if:

(A) the chief administrative officer reclassifies the record as public; or

(B) for records that are private under Utah Code § 63G-2-302(2) or records protected under 63G-2-305, the chief administrative officer upholds the classification and determines that the interests favoring access are greater than or equal to the interests favoring a denial of access.

(b) The chief administrative officer may not grant an appeal and provide records that are subject to other state or federal laws precluding disclosure.

(c) If the chief administrative officer affirms the access denial in whole or in part, the chief administrative officer's written response shall include:

(i) a statement that the requester or interested party has the right to appeal the decision, as provided in Utah Code § 63G-2-402, to the State Records Committee or district court;

(ii) the time limits for filing an appeal, no later than 30 days after the date of the decision as provided in Utah Code § 63G-2-403(1) and 404(1); and

(iii) the name and business address of the executive secretary of the State Records Committee.

(4) Only a record request access denial may be appealed to the State Records Committee.

Part 5
Process for Vexatious Requesters

Section G-501. Designating vexatious requesters.

The Office shall follow the designation and appeals process outlined in Utah Code § 63G-2-209 for vexatious requesters.

APPENDIX A

Office of the Governor of Utah Record Management Policy Records Retention Schedule

Permanent or until the Office transmits the record to the Division of Archives

- Artifacts given to the governor
- Ceremonial bills
- Constituent correspondence submitted through governor's webportal
- Governor's state of the state addresses and official budget recommendations required by Utah code
- Publications

Until the administrative need to retain the records ends, as determined by the Office

- All other records

APPENDIX B

Office of the Governor of Utah Record Management Policy
Fee Schedule

Fee Description	Fee for In-State Requester	Fee for Out-of-State Requester
Filing Fee	\$0	\$75
Fee for staff time to identify, gather, segregate, classify, and provide records, including for a preliminary search under Subsection G-301(5).	\$40 per hour after the first fifteen minutes of staff time	\$60 per hour
Fee for photocopies of records	\$.10 per side (black and white) \$.40 per side (color)	\$.20 per side (black and white) \$.80 per side (color)
Fee for faxing records	\$1 per page	\$2 per page
Fee for CD/DVD or flash drive containing records	Actual cost, with \$5 minimum per disc	Actual cost, with \$5 minimum per disc
Fee to cover mailing cost	Actual cost, with \$2 minimum	Actual cost, with \$3 minimum
Fee for providing a certified copy of a record	\$10 (in addition to any other applicable fee)	\$10 (in addition to any other applicable fee)