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### 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 45 days if the chief administrative officer failed to make a determination.

#### Requester's information

Name: Heather Gardner

Date: 4/10/2015

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Daytime telephone number: \_\_\_\_\_

#### Make request to

Nova Dubovik  
346 South Rio Grande Street  
Salt Lake City, Utah 84101  
[ndubovik@utah.gov](mailto:ndubovik@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)).

On February 4th, 2015 I submitted two expedited GRAMA requests to Benjamin Rasmussen, GRAMA specialist and special counsel for Utah State Office of Education. These requests were for emails between November 2014 and February 2015. Records requested were to include emails between Legacy Preparatory Academy and USOE containing the words opt out or Heather Gardner. The other GRAMA request was for emails during the same time period between AAG Chris Lacombe and Judy Parks containing the words opt out or opt-out. The request to expedite was denied on February 6th and I was notified the office would take ten days to fulfill the request.

On February 18th I received a portion of the information requested, but my request for emails involving Chris Lacombe AAG in the email chain was denied. Chris Rasmussen stated "these records reflect attorney client communications and are protected under GRAMA."

I appealed the denial via email on February 20, 2015 following the procedure Mr. Rasmussen outlined in his email and in accordance with the requirements under 63G-2-401. This appeal was addressed in writing to Brad Smith, superintendent of Utah Schools. I spoke with Mr. Smith in person on February 24, 2015 on Capitol Hill and he remarked he had not received any such request. Therefore, I re-forwarded him the appeal on February 24, 2015.

Inasmuch as I have not received a response from the chief administrative officer, I am sending this notice of appeal to the State Records Committee under Utah Code 63G-2-401 (5).

Relief sought is the release of records between USOE employee Judy Park and AAG Chris Lacombe between November 2014 and February 2015 containing the words opt out or opt-out.

### 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
- Notice of denial 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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