

Part 2 Access to Records

63G-2-201 Right to inspect records and receive copies of records.

- (1) Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.
- (2) A record is public unless otherwise expressly provided by statute.
- (3) The following records are not public:
 - (a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and
 - (b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
- (4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.
- (5)
 - (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.
 - (b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:
 - (i) there is no interest in restricting access to the record; or
 - (ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.
 - (c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:
 - (i) the head of the governmental entity, or a designee, determines that the disclosure:
 - (A) is mutually beneficial to:
 - (I) the subject of the record;
 - (II) the governmental entity; and
 - (III) the public; and
 - (B) serves a public purpose related to:
 - (I) public safety; or
 - (II) consumer protection; and
 - (ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.
- (6)
 - (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.
 - (b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.
- (7) A governmental entity shall provide a person with a certified copy of a record if:
 - (a) the person requesting the record has a right to inspect it;

- (b) the person identifies the record with reasonable specificity; and
 - (c) the person pays the lawful fees.
- (8)
- (a) In response to a request, a governmental entity is not required to:
 - (i) create a record;
 - (ii) compile, format, manipulate, package, summarize, or tailor information;
 - (iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
 - (iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
 - (v) fill a person's records request if:
 - (A) the record requested is accessible in the identical physical form and content in a public publication or product produced by the governmental entity receiving the request;
 - (B) the governmental entity provides the person requesting the record with the public publication or product; and
 - (C) the governmental entity specifies where the record can be found in the public publication or product.
 - (b) Upon request, a governmental entity may provide a record in a particular form under Subsection (8)(a)(ii) or (iii) if:
 - (i) the governmental entity determines it is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities; and
 - (ii) the requester agrees to pay the governmental entity for providing the record in the requested form in accordance with Section 63G-2-203.
- (9)
- (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:
 - (i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and
 - (ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.
 - (b) When the requirements of Subsection (9)(a) are met, the governmental entity may:
 - (i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or
 - (ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.
- (10)
- (a) 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.
 - (b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.
- (11) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

- (12) Subject to the requirements of Subsection (8), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:
- (a) the person making the request requests or states a preference for an electronic copy;
 - (b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and
 - (c) the electronic copy of the record:
 - (i) does not disclose other records that are exempt from disclosure; or
 - (ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.
- (13) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:
- (a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and
 - (b) any public interests served by disclosure.

Amended by Chapter 410, 2016 General Session

63G-2-202 Access to private, controlled, and protected documents.

- (1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:
- (a) the subject of the record;
 - (b) the parent or legal guardian of an unemancipated minor who is the subject of the record;
 - (c) the legal guardian of a legally incapacitated individual who is the subject of the record;
 - (d) any other individual who:
 - (i) has a power of attorney from the subject of the record;
 - (ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or
 - (iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or
 - (e) any person to whom the record must be provided pursuant to:
 - (i) court order as provided in Subsection (7); or
 - (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.
- (2)
- (a) Upon request, a governmental entity shall disclose a controlled record to:
 - (i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:
 - (A) 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
 - (B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and
 - (ii) any person to whom the record must be disclosed pursuant to:
 - (A) a court order as provided in Subsection (7); or
 - (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.
 - (b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

- (3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.
- (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:
 - (a) the person that submitted the record;
 - (b) any other individual who:
 - (i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or
 - (ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;
 - (c) any person to whom the record must be provided pursuant to:
 - (i) a court order as provided in Subsection (7); or
 - (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or
 - (d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).
- (5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.
- (6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.
- (7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
 - (a) the record deals with a matter in controversy over which the court has jurisdiction;
 - (b) the court has considered the merits of the request for access to the record;
 - (c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:
 - (i) privacy interests in the case of private or controlled records;
 - (ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
 - (iii) privacy interests or the public interest in the case of other protected records;
 - (d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and
 - (e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.
- (8)
 - (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:
 - (i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;
 - (ii) determines that:
 - (A) the proposed research is bona fide; and
 - (B) the value of the research is greater than or equal to the infringement upon personal privacy;
 - (iii)
 - (A) requires the researcher to assure the integrity, confidentiality, and security of the records;

- (B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
 - (iv) prohibits the researcher from:
 - (A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or
 - (B) using the record for purposes other than the research approved by the governmental entity; and
 - (v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.
 - (b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.
 - (c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).
 - (d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).
- (9)
- (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:
 - (i) private under Section 63G-2-302; or
 - (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.
 - (b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:
 - (i) private under Section 63G-2-302;
 - (ii) controlled under Section 63G-2-304; or
 - (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.
 - (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.
- (10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.
- (11)
- (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).
 - (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.
- (12)
- (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:
 - (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

- (ii) Subsections 62A-16-302(1) and (6).
- (b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Amended by Chapter 348, 2016 General Session

63G-2-203 Fees.

- (1) A governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record. This fee shall be approved by the governmental entity's executive officer.
- (2)
 - (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:
 - (i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;
 - (ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and
 - (iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).
 - (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.
 - (c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first quarter hour of staff time.
- (3)
 - (a) Fees shall be established as provided in this Subsection (3).
 - (b) A governmental entity with fees established by the Legislature:
 - (i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and
 - (ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.
 - (c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.
 - (d) The judiciary shall establish fees by rules of the judicial council.
- (4) A governmental entity may fulfill a record request without charge and is encouraged to do so if it determines that:
 - (a) releasing the record primarily benefits the public rather than a person;
 - (b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or
 - (c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.
- (5) A governmental entity may not charge a fee for:
 - (a) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii); or
 - (b) inspecting a record.

- (6)
 - (a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.
 - (b) The adjudicative body hearing the appeal:
 - (i) shall review the fee waiver de novo, but shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and
 - (ii) has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.
- (7)
 - (a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.
 - (b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in providing the requested record or record series.
- (8)
 - (a) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:
 - (i) fees are expected to exceed \$50; or
 - (ii) the requester has not paid fees from previous requests.
 - (b) Any prepaid amount in excess of fees due shall be returned to the requester.
- (9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.
- (10)
 - (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection (10).
 - (b) The lieutenant governor shall:
 - (i) after consultation with county clerks, establish uniform fees for voter registration and voter history records that meet the requirements of this section; and
 - (ii) obtain legislative approval of those fees by following the procedures and requirements of Section 63J-1-504.

Amended by Chapter 90, 2016 General Session

63G-2-204 Requests -- Time limit for response and extraordinary circumstances.

- (1) A person making a request for a record shall furnish the governmental entity with a written request containing:
 - (a) the person's name, mailing address, and daytime telephone number, if available; and
 - (b) a description of the record requested that identifies the record with reasonable specificity.
- (2)
 - (a) Subject to Subsection (2)(b), a person making a request for a record shall submit the request to the governmental entity that prepares, owns, or retains the record.
 - (b) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record if the record was shared for the purpose of auditing, if the governmental entity is authorized by state statute to conduct an audit.
 - (c) If a governmental entity is prohibited from providing a record under Subsection (2)(b), it shall:
 - (i) deny the records request; and

- (ii) inform the person making the request that records requests must be submitted to the governmental entity that prepares, owns, or retains the record.
- (d) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.
- (3) After receiving a request for a record, a governmental entity shall:
 - (a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and
 - (b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:
 - (i) approve the request and provide a copy of the record;
 - (ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;
 - (iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or
 - (iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (5), it cannot immediately approve or deny the request, and include with the notice:
 - (A) a description of the circumstances that constitute the extraordinary circumstances; and
 - (B) the date when the records will be available, consistent with the requirements of Subsection (6).
- (4) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.
- (5) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection (6) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (3):
 - (a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;
 - (b) 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;
 - (c)
 - (i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or
 - (ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;
 - (d) the governmental entity is currently processing a large number of records requests;
 - (e) the request requires the governmental entity to review a large number of records to locate the records requested;
 - (f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;
 - (g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

- (h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.
- (6) If one of the extraordinary circumstances listed in Subsection (5) precludes approval or denial within the time specified in Subsection (3), the following time limits apply to the extraordinary circumstances:
 - (a) for claims under Subsection (5)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;
 - (b) for claims under Subsection (5)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;
 - (c) for claims under Subsections (5)(c), (d), and (e), the governmental entity shall:
 - (i) disclose the records that it has located which the requester is entitled to inspect;
 - (ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;
 - (iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and
 - (iv) for any person that does not establish a right to an expedited response as authorized by Subsection (3), a governmental entity may choose to:
 - (A) require the person to provide for copying of the records as provided in Subsection 63G-2-201(9); or
 - (B) treat a request for multiple records as separate record requests, and respond sequentially to each request;
 - (d) for claims under Subsection (5)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;
 - (e) for claims under Subsection (5)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or
 - (f) for claims under Subsection (5)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.
- (7)
 - (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (2), the office shall promptly forward the request to the appropriate office.
 - (b) If the request is forwarded promptly, the time limit for response begins when the record is received by the office specified by rule.
- (8) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Amended by Chapter 340, 2011 General Session

63G-2-205 Denials.

- (1) If the governmental entity denies the 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 address.
- (2) The notice of denial shall contain the following information:
 - (a) a description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

- (b) citations to the provisions of this chapter, court rule or order, another state statute, federal statute, or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);
 - (c) a statement that the requester has the right to appeal the denial to the chief administrative officer of the governmental entity; and
 - (d) the time limits for filing an appeal, and the name and business address of the chief administrative officer of the governmental entity.
- (3) Unless otherwise required by a court or agency of competent jurisdiction, a governmental entity 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.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-206 Sharing records.

- (1) A governmental entity 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:
- (a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;
 - (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;
 - (c) is authorized by state statute to conduct an audit and the record is needed for that purpose;
 - (d) is one that collects information for presentence, probationary, or parole purposes; or
 - (e)
 - (i) is:
 - (A) the Legislature;
 - (B) a legislative committee;
 - (C) a member of the Legislature; or
 - (D) a legislative staff member acting at the request of the Legislature, a legislative committee, or a member of the Legislature; and
 - (ii) requests the record in relation to the Legislature's duties including:
 - (A) the preparation or review of a legislative proposal or legislation;
 - (B) appropriations; or
 - (C) an investigation or review conducted by the Legislature or a legislative committee.
- (2)
- (a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:
 - (i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;
 - (ii) 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
 - (iii) that the use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series.
 - (b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b).
- (3)

- (a) A governmental entity 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:
 - (i) is entitled by law to inspect the record;
 - (ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or
 - (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).
- (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection 63G-2-305(4).
- (4) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:
 - (a) inform the recipient of the record's classification and the accompanying restrictions on access; and
 - (b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.
- (5) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1) and (2) without complying with the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.
- (6)
 - (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.
 - (b) A contractor or a private provider may receive information under this section only if:
 - (i) the contractor or private provider's use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series;
 - (ii) the record or record series it requests:
 - (A) is necessary for the performance of a contract with a governmental entity;
 - (B) will only be used for the performance of the contract with the governmental entity;
 - (C) will not be disclosed to any other person; and
 - (D) will not be used for advertising or solicitation purposes; and
 - (iii) the contractor or private provider gives written assurance to the governmental entity that is providing the record or record series that it will adhere to the restrictions of this Subsection (6)(b).
 - (c) The classification of a record already held by a governmental entity and the applicable restrictions on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held record.
- (7) 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.
- (8) The following records may not be shared under this section:
 - (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining;
 - (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c); and

- (c) a record described in Section 63G-12-210.
- (9) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

Amended by Chapter 377, 2012 General Session

63G-2-207 Subpoenas -- Court ordered disclosure for discovery.

- (1) Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal, administrative, or legislative procedure are not written requests under Section 63G-2-204.
- (2)
 - (a)
 - (i) Except as otherwise provided in Subsection (2)(c), in judicial or administrative proceedings in which an individual is requesting discovery of records classified private, controlled, or protected under this chapter, or otherwise restricted from access by other statutes, the court, or an administrative law judge shall follow the procedure in Subsection 63G-2-202(7) before ordering disclosure.
 - (ii) Until the court or an administrative law judge orders disclosure, these records are privileged from discovery.
 - (b) If, the court or administrative order requires disclosure, the terms of the order may limit the requester's further use and disclosure of the record in accordance with Subsection 63G-2-202(7), in order to protect the privacy interests recognized in this chapter.
 - (c) Unless a court or administrative law judge imposes limitations in a restrictive order, this section does not limit the right to obtain:
 - (i) records through the procedures set forth in this chapter; or
 - (ii) medical records discoverable under state or federal court rules as authorized by Subsection 63G-2-302(3).

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-208 Public repository of legislative email.

- (1) As used in this section, "repository" means the repository of email described in Subsection (2).
- (2)
 - (a) On or before January 1, 2014, the Legislature shall post on its website a publicly accessible repository containing email that legislators transfer to it as provided in this section.
 - (b) The repository shall be searchable by sender, receiver, and subject.
- (3) A legislator may transfer to the repository an email that the legislator sent or received.
- (4) An email in the repository may be removed from the repository if:
 - (a) the email was accidentally transferred to the repository;
 - (b) it is determined that the email is not a record or that the email is a private, protected, or controlled record;
 - (c) the email is deleted pursuant to the Legislature's record retention policy; or
 - (d) for an email that is not removed from the repository earlier under Subsection (4)(a), (b), or (c), at least two years have passed after the day the legislator first sent or received the email.
- (5) A legislator's failure to transfer an email to the repository does not alone mean that the email is a private, protected, or controlled record.

Enacted by Chapter 231, 2013 General Session

