

Representative Brian M. Greene proposes the following substitute bill:

PUBLIC ACCESS OF ADMINISTRATIVE ACTION

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Administrative Procedures Act to address public access to administrative actions.

Highlighted Provisions:

This bill:

- ▶ addresses access of information on public state-controlled websites;
- ▶ addresses application of the Government Records Access and Management Act; and
- ▶ addresses the Open and Public Meetings Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-4-106, Utah Code Annotated 1953

63G-4-107, Utah Code Annotated 1953

63G-4-108, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-4-106** is enacted to read:

63G-4-106. Access to state-controlled websites.

(1) As used in this section and Sections [63G-4-107](#) and [63G-4-108](#):

(a) "Administrative disciplinary action" means, subject to the limitations described in Section [63G-4-102](#), state agency action against the interest of an individual that affects a legal right, duty, privilege, immunity, or other legal interest of an individual, including agency action to deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license.

(b) "Record of administrative disciplinary action" means a notice, request, complaint, report, order, or other information related to an administrative disciplinary action.

(c) "State-controlled website" means a website:

(i) operated by:

(A) an agency; or

(B) a third party pursuant to a contract with an agency under which the agency controls the data available to the public; and

(ii) that includes personally identifiable information.

(2) Unless otherwise required by federal law, if an agency maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, the agency shall remove the record of administrative disciplinary action from public access on the state-controlled website by no later than 10 years from the date:

(a) a final order related to the administrative disciplinary action was issued; or

(b) the administrative disciplinary action was commenced, if no final order was issued related to the administrative disciplinary action.

(3) Notwithstanding Subsection (2):

(a) a record of administrative disciplinary action issued in accordance with this chapter shall maintain its record classification pursuant to Subsection [63G-2-301\(2\)\(c\)](#) or [\(3\)\(t\)](#); and

(b) a person may make a request for the record of administrative disciplinary action in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section **63G-4-107** is enacted to read:

63G-4-107. Petition to remove agency action from public access.

57 (1) An individual may petition the agency that maintains, on a state-controlled website
58 available to the public, a record of administrative disciplinary action, to remove the record of
59 administrative disciplinary action from public access on the state-controlled website, if:

60 Ĥ→ (a) ←Ĥ (i) five years have passed since:

61 (A) the date the final order was issued; or

62 (B) if no final order was issued, the date the administrative disciplinary action was
63 commenced; or

64 (ii) the individual has obtained a criminal expungement order under Title 77, Chapter
65 40, Utah Expungement Act, for the individual's criminal records related to the same incident or
66 conviction upon which the administrative disciplinary action was based;

67 (b) the individual has successfully completed all action required by the agency relating
68 to the administrative disciplinary action within the time frame set forth in the final order, or if
69 no time frame is specified in the final order, within the time frame set forth in Title 63G,
70 Chapter 4, Administrative Procedures Act;

71 (c) from the time that the original administrative disciplinary action was filed, the
72 individual has not violated the same statutory provisions or administrative rules related to those
73 statutory provisions that resulted in the original administrative disciplinary action; and

74 (d) the individual pays an application fee determined by the agency in accordance with
75 Section [63J-1-504](#).

76 (2) The individual petitioning the agency under Subsection (1) shall provide the agency
77 with a written request containing the following information:

78 (a) the petitioner's full name, address, telephone number, and date of birth;

79 (b) the information the petitioner seeks to remove from public access; and

80 (c) an affidavit certifying that the petitioner is in compliance with the provisions of
81 Subsection (1).

82 (3) Within 30 days of receiving the documents and information described in
83 Subsection (2):

84 (a) the agency shall review the petition and all documents submitted with the petition
85 to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

86 (b) if the agency determines that the petitioner has met the requirements of Subsections
87 (1) and (2), the agency shall immediately remove the record of administrative disciplinary

88 action from public access on the state-controlled website.

89 (4) Notwithstanding the provisions of Subsection (3), an agency is not required to
90 remove a recording, written minutes, or other electronic information from the Utah Public
91 Notice Website, created under Section [63F-1-701](#), if the recording, written minutes, or other
92 electronic information is required to be available to the public on the Utah Public Notice
93 Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

94 Section 3. Section **63G-4-108** is enacted to read:

95 **63G-4-108. Impact on duty to disclose an administrative action.**

96 The removal of a record of an administrative disciplinary action from a state-controlled
97 website in accordance with Section [63G-4-106](#) or [63G-4-107](#) does not affect any separate legal
98 duty or requirement that the subject of the administrative disciplinary action may have to
99 disclose the action.