

PUBLIC ACCESS OF ADMINISTRATIVE ACTION

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

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

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

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



28 **63G-4-106. Access to state-controlled websites.**

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

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

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

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

37 (i) operated by:

38 (A) an agency; or

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

41 (ii) that includes personally identifiable information.

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

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

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

49 (3) Notwithstanding Subsection (2):

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

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

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

55 **63G-4-107. Petition to remove agency action from public access.**

56 (1) A person may petition the agency that maintains, on a state-controlled website
57 available to the public, a record of administrative disciplinary action, for an order to remove the
58 record of administrative disciplinary action from public access on the state-controlled website,

59 if:
60 (a) five years have passed since:
61 (i) the date the final order was issued; or
62 (ii) if no final order was issued, the date the administrative disciplinary action was
63 commenced; and
64 (b) the person has successfully completed all action required by the agency relating to
65 the administrative disciplinary action.
66 (2) The person petitioning the agency under Subsection (1) shall provide the agency
67 with a written request containing the following information:
68 (a) the petitioner's full name, address, telephone number, and date of birth;
69 (b) the information the petitioner seeks to remove from public access; and
70 (c) an affidavit certifying that the petitioner is in compliance with the provisions of
71 Subsection (1).
72 (3) Within 30 days of receiving the documents and information described in
73 Subsection (2):
74 (a) the agency shall review the petition and all documents submitted with the petition
75 to determine whether the petitioner has met the requirements of Subsections (1) and (2); and
76 (b) if the agency determines that the petitioner has met the requirements of Subsections
77 (1) and (2), the agency shall order that the record of administrative disciplinary action be
78 immediately removed from public access on the state-controlled website.
79 (4) Notwithstanding the provisions of Subsection (3), an agency is not required to
80 remove a recording, written minutes, or other electronic information from the Utah Public
81 Notice Website, created under Section [63F-1-701](#), if the recording, written minutes, or other
82 electronic information is required to be available to the public on the Utah Public Notice
83 Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.