

Effective 5/7/2025

63G-2-209 Vexatious requester.

(1) As used in this section:

- (a) "Director" means the director of the Government Records Office, created in Section 63A-12-202.
- (b) "Respondent" means a person that a governmental entity claims is a vexatious requester under this section.

(2)

- (a) A governmental entity may file a petition with the director to request relief from a person that the governmental entity claims is a vexatious requester.
- (b) A petition under Subsection (2)(a) shall contain:
 - (i) the name, phone number, mailing address, and email address that the respondent submitted to the governmental entity;
 - (ii) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;
 - (iii) a statement of the relief the governmental entity seeks; and
 - (iv) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.
- (c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental entity shall send a copy of the petition to the respondent.

(3)

- (a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the petition, the director shall schedule a hearing to consider the petition, to be held:
 - (i)
 - (A) at the next regularly-scheduled hearing date that is at least 16 calendar days after the day on which the petition is filed but no later than 64 calendar days after the day on which the petition is filed; or
 - (B) at a regularly-scheduled hearing date that is later than the period described in Subsection (3)(a)(i)(A) if the later hearing date is the first regularly-scheduled hearing date at which there are fewer than 10 appeals scheduled to be heard; or
 - (ii) to the extent practicable, at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:
 - (A) requests an expedited hearing; and
 - (B) shows good cause for the expedited hearing.
- (b) If the director schedules a hearing under Subsection (3)(a), the director shall:
 - (i) send a copy of the notice of hearing to the governmental entity and the respondent; and
 - (ii) if applicable, send a copy of the respondent's statement under Subsection (3)(c)(ii)(B) to the governmental entity.
- (c) The director may decline to schedule a hearing if:
 - (i) the director makes an initial determination that the petition should be denied without a hearing; and
 - (ii) before the director makes a final ruling to deny the petition, the director:
 - (A) provides the parties with notice of the initial determination described in Subsection (3)(c)(i), including the reasons for the initial determination;
 - (B) provides the parties with a reasonable opportunity to respond to the initial determination described in Subsection (3)(c)(i); and
 - (C) provides the respondent with a reasonable opportunity to submit a written response to the petition.

- (d) If, after complying with Subsection (3)(c), the director makes a final ruling denying the petition without a hearing, the director shall:
 - (i) issue an order denying the petition; and
 - (ii) include in the order the reasons for denying the petition and the reasons for making the ruling without a hearing.
- (e) If, after complying with Subsection (3)(c), the director determines that a hearing should be held, the director shall schedule a hearing in accordance with Subsection (3)(a).
- (4)
 - (a) No later than five business days before the day of the hearing, the respondent may submit to the director and the governmental entity a written statement in response to the governmental entity's petition.
 - (b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection (3)(c)(ii)(C).
- (5) No later than 10 business days before the day of a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the director as provided in Subsection 63G-2-403(6).
- (6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the director shall:
 - (a) cancel the hearing; or
 - (b) hold the hearing in accordance with Subsection (7).
- (7)
 - (a) If the director holds a hearing scheduled under Subsection (3), the director shall:
 - (i) allow the governmental entity to testify, present evidence, and comment on the issues; and
 - (ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.
 - (b) At the hearing, the director may allow another interested person to comment on the issues.
 - (c)
 - (i) Discovery is prohibited, but the director may issue subpoenas or other orders to compel production of necessary testimony or evidence.
 - (ii) If the subject of a director's subpoena disobeys or fails to comply with the subpoena, the director may file a motion with the district court for an order to compel obedience to the subpoena.
- (8)
 - (a) No later than seven business days after the day on which a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the director shall:
 - (i) determine, in accordance with Subsection (9), whether the governmental entity has demonstrated that the respondent is a vexatious requester; and
 - (ii) issue a signed order that grants or denies the petition in whole or in part.
 - (b) Upon granting the petition in whole or in part, the director may order that the governmental entity is not required to fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.
 - (c) The director's order shall contain:
 - (i) a statement of the reasons for the director's decision;
 - (ii) if the petition is granted in whole or in part, a specific description of the conduct the director determines demonstrates that the respondent is a vexatious requester, including any conduct the director finds to constitute an abuse of the right of access to information under this chapter or a substantial interference with the operations of the governmental entity;

- (iii) a statement that the respondent or governmental entity may seek judicial review of the director's decision in district court as provided in Section 63G-2-404; and
 - (iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a notice that, in order to protect applicable rights in connection with the judicial review, the person seeking judicial review of the director's decision may wish to seek advice from an attorney.
- (9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious requester, the director shall consider:
 - (a) as applicable:
 - (i) the number of requests the respondent has submitted to the governmental entity, including the number of pending record requests;
 - (ii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the governmental entity;
 - (iii) the nature, content, language, and subject matter of any communications to the governmental entity related to a record request of the respondent; and
 - (iv) any pattern of conduct that the director determines to constitute:
 - (A) an abuse of the right of access to information under this chapter; or
 - (B) substantial interference with the operations of the governmental entity; and
 - (b) any other factor the director considers relevant.
- (10)
 - (a) A governmental entity or respondent aggrieved by the director's decision under this section may seek judicial review of the decision as provided in Section 63G-2-404.
 - (b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a respondent if:
 - (i) the respondent substantially prevails; and
 - (ii) the court determines that:
 - (A) the petition filed by the governmental entity under Subsection (2) is without merit;
 - (B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law; and
 - (C) the governmental entity filed the petition in bad faith.
 - (c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.
- (11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is not required to fulfill in accordance with an order issued under this section may not be the subject of an appeal under Part 4, Appeals.
- (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules to implement the procedures and requirements described in this section.

Amended by Chapter 188, 2025 General Session
Amended by Chapter 476, 2025 General Session