

63G-2-802 Injunction -- Attorney fees.

- (1) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.
- (2)
 - (a) A district court may assess against any governmental entity or political subdivision reasonable attorney fees and other litigation costs reasonably incurred in connection with a judicial appeal of a denial of a records request if the requester substantially prevails.
 - (b) In determining whether to award attorneys' fees under this section, the court shall consider:
 - (i) the public benefit derived from the case;
 - (ii) the nature of the requester's interest in the records; and
 - (iii) whether the governmental entity's or political subdivision's actions had a reasonable basis.
 - (c) Attorney fees shall not ordinarily be awarded if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.
- (3) Neither attorney fees nor costs shall be awarded for fees or costs incurred during administrative proceedings.
- (4) Notwithstanding Subsection (2), a court may only award fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) if the fees and costs were incurred 20 or more days after the requester provided to the governmental entity or political subdivision a statement of position that adequately explains the basis for the requester's position.
- (5) Claims for attorney fees as provided in this section or for damages are subject to Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Renumbered and Amended by Chapter 382, 2008 General Session