

491 63G-4-102, state agency action against the interest of an individual that affects a legal right,  
 492 duty, privilege, immunity, or other legal interest of an individual, including agency action to  
 493 deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license.

494 (b) "Disciplinary action" does not include an investigation, detention, or conviction by  
 495 law enforcement or a court.

496 (3) "Eligible petitioner" means an individual who was previously the subject of  
 497 disciplinary action by a state agency but who has:

498 (a) not been convicted of a crime for behavior related to the disciplinary action, unless  
 499 that criminal conviction has been expunged under Title 77, Chapter 40, Utah Expungement  
 500 Act;

501 (b) not been the subject of disciplinary action ~~H→~~ or a criminal conviction ~~←H~~ during  
 501a the preceding ~~H→~~ [three] five ~~←H~~ years;

502 (c) at least two years before the date of the application, fully complied with agency  
 503 requirements regarding previous disciplinary action; and

504 (d) not previously obtained more than one administrative expungement under this part.

505 (4) (a) "Qualifying record" means a record of a state agency that the agency makes  
 506 available to the public, including through an agency controlled website or other electronic  
 507 means, regarding disciplinary action that was a final agency action at least three years before an  
 508 eligible petitioner applies to the agency for expungement of the record under this part.

509 (b) "Qualifying record" does not include a recording, written minutes, or any other  
 510 record created in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

511 Section 5. Section **63G-4-703** is enacted to read:

512 **63G-4-703. Expungement of disciplinary action.**

513 (1) Notwithstanding any conflicting provisions of Title 63G, Chapter 2, Government  
 514 Records Access and Management Act, and except as provided in Subsection (2), within 60  
 515 days after the day on which an agency receives an application for administrative expungement  
 516 from an eligible petitioner, the agency shall expunge the qualifying record of the eligible  
 517 petitioner if:

518 (a) the petitioner applies to the agency for administrative expungement in a form  
 519 established by agency rule in accordance with Title 63G, Chapter 3, Utah Administrative  
 520 Rulemaking Act; and

521 (b) the petitioner pays an application fee determined by the agency under Section

522 63J-1-504.

523 (2) Within 60 days after the day on which an agency receives an application for  
 524 administrative expungement, the agency head, or the agency head's designee, may deny the  
 525 application if:

526 (a) the petitioner filing the application is not an eligible petitioner;

527 (b) the record identified for administrative expungement is not a qualifying record;

528 (c) the petitioner provides false information on the application;

529 (d) the record for which administrative expungement is sought relates to criminal  
 530 conduct that resulted in a conviction that has not been expunged in accordance with Title 77,  
 531 Chapter 40, Utah Expungement Act;

532 (e) the agency head, or the agency head's designee, after ~~H~~→ [weighing] balancing ←~~H~~  
 532a the public's interest  
 533 against the petitioner's right to privacy, determines that ~~H~~→ [administrative expungement would  
 534 unreasonably endanger the health or safety of the public] the risk to the public that would result  
 534a from administrative expungement outweighs the petitioner's privacy interest ←~~H~~ ; or

535 (f) the agency head, or the agency head's designee, determines that the petitioner's  
 536 behavior was of such ~~H~~→ [an egregious or malicious] a ←~~H~~ nature that the passage of additional  
 536a time is  
 537 required before administrative expungement is warranted.

538 (3) If the agency head, or the agency head's designee, denies an application for  
 539 administrative expungement under Subsection (2), the agency shall provide a written  
 540 explanation of the denial to the petitioner.

541 (4) If the agency does not provide a written explanation of a denial or otherwise  
 542 respond to a petitioner within 60 days after the day on which the agency receives an application  
 543 for administrative expungement, the agency shall expunge the qualifying record of an eligible  
 544 petitioner.

545 (5) An eligible petitioner whose application for administrative expungement is denied  
 546 as described in Subsection (2) may seek judicial review of the decision in accordance with  
 547 Section 63G-4-401.

548 (6) Notwithstanding the provisions of this part, a record expunged under this part may  
 549 be:

550 (a) used by the agency in any manner consistent with agency procedures, if the records  
 551 are not made available to the public;

552 (b) shared by the agency with law enforcement or a court;

553 (c) shared by the agency with another ~~it~~→ state ←~~it~~ agency, if that agency agrees  
553a to not make the  
554 record available to the public; and  
555 (d) distributed by the agency as directed by court order.  
556 (7) Within three years after the administrative expungement of a record under this part,  
557 the agency head, or the agency head's designee, may rescind the administrative expungement of  
558 an expunged record if:  
559 (a) an additional and final record of disciplinary action is entered against the eligible  
560 petitioner; or  
561 (b) the agency determines that material information provided in the petitioner's  
562 application for administrative expungement was false.  
563 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a  
564 state agency may establish rules for the purpose of administering this section, including rules:  
565 (a) establishing standards upon which to deny or rescind an administrative  
566 expungement under this part; and  
567 (b) to notify and accept comments from any individual affected by the behavior that  
568 was the basis for the disciplinary action that is the subject of an administrative expungement  
569 application under this part.