

WEBER COUNTY CORRECTIONAL FACILITY

Volume

GENERAL PROVISIONS

Chapter

JA 08 - GRAMA: DENIALS AND APPEALS

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JA 08/01.00 **GENERAL**

JA 08/01.01 **Purpose**

The purpose of this chapter is to provide the policies, procedures, and legal requirements governing appeals for being denied access to a record under the Government Records Access and Management Act (GRAMA).

JA 08/01.02 **Cross Reference**

Chapter 2; Title 63; Utah Code Annotated

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JA 08/01.03 **Distribution**

A. In addition to the standard distribution, provide copies of this chapter to:

1. Weber County Sheriff's Office Records Bureau;

2. WCCF Records Bureau;

3. the WCCF GRAMA Coordinator; and

4. the Weber County Attorney's Office.

B. This series, chapters JA 05 through JA 08 are not chapters of which individual staff members must have a working knowledge. It is only necessary that each staff member understands that all requests from outside entities (i.e., public, news media) for records must be immediately routed to the GRAMA Coordinator.

JA 08/01.04 **Definitions**

GRAMA	Government Records Access and Management Act, Chapter 2, Title 63, Utah Code Annotated
private record	any record containing data on individuals that is private as provided by § 63-2-302; refer to JA 06/03.06
protected record	any record that is classified protected as provided by § 63-2-304; refer to JA 06/03.08
public record	any record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63-2-201 (3)(b)
requester	the person making a request for records

JA 08/02.00 **DENIAL OF RECORD REQUEST**

JA 08/02.01 **Policy**

It is the policy of the WCCF that access shall be denied to records designated private, controlled, or protected by the WCCF, unless otherwise permitted by statute or court order.

JA 08/02.02 **Rationale**

Records properly designated private, controlled, or protected are shielded by statute from public access.

JA 08/02.03 **Procedure: General**

- C. Weber County shall deny public access to records which are designated as private, controlled, or protected or which are otherwise safeguarded by provisions of GRAMA or other statutes or court order against review or duplication.
- D. If Weber County denies a request in whole or part, § 63-2-205 requires officials to provide notice of denial to the requester either in person or by sending written notice to the requester's address.
- E. A notice of denial should include:
 - 1. a description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information exempt by GRAMA from disclosure;
 - 2. citations to provisions of GRAMA, court rule or order, other state statute, or federal statute or regulation that exempt the record from disclosure;
 - 3. a statement that the requester has the right to appeal the denial to the Sheriff; and
 - 4. the time limits for filing an appeal, and the name and business address of the Sheriff.
- D. If Weber County fails to provide the requested records or issue a denial within the specified time period that failure is, under § 63-2-204 (7), considered the equivalent of a determination denying access to records.

- E. Unless otherwise ordered by a court or agency of competent jurisdiction, Weber County may not destroy or give up custody of any record to which access was denied until the period for appeal has expired or the end of the appeals process, including judicial appeal.

JA 08/02.04 **Procedure: Applicability of Pre-Existing Confidentiality Agreements**

Any requests for records which are subject to a confidentiality agreement executed prior to April 1, 1992, shall be subject to the law in place at the time the agreement was executed.

JA 08/03.00 **APPEAL PROCESS**

JA 08/03.01 **Policy**

It is the policy of the WCCF to:

- A. allow requesters to appeal denials to the Sheriff; and
- B. provide the requester notice of his further appeal rights if the requester's appeal is denied by the Sheriff.

JA 08/03.02 **Rationale**

Providing for an appeal to the chief administrative officer of an agency and notice of additional appeal options for requesters who are denied access to a record is required under Chapter 2, Title 63, to be in compliance with GRAMA.

JA 08/03.03 **Procedure: General**

GRAMA provides for appeals to the head of a governmental entity (Sheriff), the State Records Committee, and/or the state district court.

JA 08/03.04 **Procedure: Appeal to Sheriff**

- A. Any person aggrieved by a decision regarding access to a record, including a person not a party to the County's proceedings, may appeal the determination within 30 days to the Sheriff.
- B. Notice of appeal shall contain:
 - 1. the petitioner's name, mailing address, and daytime telephone number; and
 - 2. the relief sought.
- C. The petitioner may also file a short statement of facts, reasons, and legal authority in support of the appeal.
- D. The Sheriff shall consider the petitioner's appeal consistent with the requirements of § 63-2-401, "Appeal to head of governmental entity."
- E. The Sheriff shall make a determination on the appeal within five business days after receiving the notice of appeal.

1. If the Sheriff fails to make a determination within the allotted time, the failure shall be considered the equivalent of an order denying the appeal.
 2. The parties may by agreement, extend the time period specified in this section.
- F. The Sheriff shall send notice of his determination to all parties. If the Sheriff's determination affirms the denial in whole or in part, § 63-2-401 (6) requires that the denial shall include a statement that the requester has the right to appeal the denial, to what entities the appeal may be made (see JA 08/03.05, "Procedure: Options for Appealing Sheriff's Denial"), the time limits for filing an appeal, and the name and business address of the executive secretary of the State Records Committee.

JA 08/03.05 **Procedure: Options for Appealing Sheriff's Denial**

- A. If the Sheriff denies an appeal, the requester has the option to:
1. appeal the denial to the **State Records Committee** as provided in § 63-2-403; **or**
 2. petition for **judicial review in the district court** as provided in § 63-2-404.
- B. Any person claiming to be aggrieved by the Sheriff's determination, including persons who did not participate in the request proceedings (i.e., someone whose privacy may be effected by the release of a record) may appeal the determination to the State Records Committee as provided in § 63-2-403.

JA 08/03.06 **Procedure: Appeal of Duplication Fees/ Fee Waivers**

- A. A requester who believes that there has been an unreasonable denial of a fee waiver under § 63-2-203 (4) may appeal the denial in the same manner as a person appeals when access to a record is denied.
- B. The adjudicative body hearing the appeal has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.