

DISCLOSURE STATEMENT

Pursuant to the Utah Public Employee's Ethics Act
Utah Code Ann. §§ 67-16-1 through 14

I _____, being first sworn, do hereby disclose as follows:

1. I reside at _____

2. I was appointed or am employed as a public officer or employee of _____
_____ on _____

3. I am an officer, director, agent employee, or owner of a substantial interest in the following business entities which are subject to regulation by the agency which employs me:

Name of Entity: _____

Position Held: _____

Nature and value of interest held (must exceed \$2,000.00 in value): _____

See Utah Code Ann. § 67-16-7

4. I have solicited, received, or have agreed to receive for myself or another, compensation, loans or gifts, directly or indirectly from the following persons or business entities who in the past, now, or in the future may be subject to government action that I may be involved in that directly affects them.

Name and address of person or business entity: _____

A brief description of the:

1) gift, loan, or compensation offered or received _____

2) the transaction or government action involving the person or entity _____

3) the nature of the service I have or will perform _____

See Utah Code Ann. § 67-16-5

5. I have participated in or received or have agreed to receive or anticipate I will receive compensation in respect: 1) a transaction between a governmental agency and a business entity of which I am an officer, director, employee, or own a substantial interest, or 2) for assisting personal or business entities in transactions involving a governmental agency and disclose as follows:

Name and address of the Agency: _____

Name and address of the person or business entity being or to be assisted: _____

A brief description of the transaction as to which service is rendered or is to be rendered, and the nature of the service performed or to be performed _____

See Utah Code Ann. § 67-16-6 and 8.

6. I have no other personal investments in any business entity which will create a substantial conflict between my private interests and my public duties.

See Utah Code Ann. § 67-16-9

DATED this _____ day of _____, 200__.

Signature

SUBSCRIBED and SWORN to before me this _____, day of _____,
200__.

Notary Public

Residing at: _____

My Commission Expires:

1. Trust Basics – Division of Legal and Equitable Title
 - a. Trustor /Settlor
 - b. Trustee
 - c. Beneficiary

2. The Duties of a Private Trustee are imposed on this Board.
The core of our holding today is that the constitutional appointment of the State as trustee over the school trust lands does no more than impose on the State the ordinary authority and obligations of a trustee. We, as well as the legislature, have recognized this principle in the past. State ex rel. Sch. & Institutional Trust Land Admin. v. Mathis, 2009 UT 85, 223 P.3d 1119, 1124

3. The Duties/Powers of a Common law Trustee are:
 - a. General Powers:
 - (ii) any other powers appropriate to achieve the proper investment, management, and distribution of the trust property Utah Code Ann. § 75-7-813
 - b. Duty to Administer
 - i. Upon acceptance of a trusteeship, the trustee shall administer the trust expeditiously and in good faith, in accordance with its terms and purposes and the interests of the beneficiaries Utah Code Ann. § 75-7-801
 - c. Duty of Loyalty
 - i. A trustee shall administer the trust solely in the interests of the beneficiaries. Utah Code Ann. § 75-7-802
 - d. Impartiality
 - i. If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests. Utah Code Ann. § 75-7-803
 - e. Control and Protection of Trust Property
 - i. Must control and not waste trust res (Property)
 - f. Record Keeping
 - i. Keep adequate records
 - g. Duty to Inform and Report
 - i. a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, and unless otherwise provided by the terms of the trust a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust. Utah Code Ann. § 75-7-811
 - h. Prudent Administration
 - i. A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. Utah Code Ann. § 75-7-804

Note* HB 168 has other requirements imposed as well.

OVERVIEW: AN INTRODUCTION TO GRAMA

A. WHAT IS “GRAMA”?

The Government Records Access and Management Act (GRAMA) is a comprehensive law dealing with management of government records and access to those records. It is an attempt to balance the public's constitutional right of access to information concerning the conduct of the public's business, the individual's constitutional right of privacy in relation to personal data gathered by government entities, and the public policy interest in allowing government to restrict access to certain records for the public good. See § 102.

B. GRAMA APPLIES TO GOVERNMENT RECORDS. WHAT IS A RECORD?

The definition of “record” is broad and includes anything that provides information in documentary form. Letters, memos and reports on paper are obviously documents, but so are photographs, tape recordings, maps and information stored electronically, as on a computer disc. See § 103(19)(a).

There are some objects, such as physical evidence, that are not records even though they may contain information. Water samples, for example, may provide information about the quality of the water from which the samples were taken, but the samples themselves are not records. The resulting laboratory reports are records. GRAMA also exempts some items from its definition of a record. For example, temporary drafts, personal notes and personally owned documents are not records

C. HOW DOES GRAMA WORK?

GRAMA establishes record classifications. To protect individual privacy, GRAMA allows certain records to be classified as “private” or “controlled.” Records to which access may be restricted for the public good are classified as “protected.” Access to a record depends on its classification.

- **Public records:** Under GRAMA, all records are public unless they fit within one of the categories exempt from public disclosure – private, controlled, protected, or limited. See §§ 201(2), 201(3)(b) and (c). In addition, GRAMA specifically identifies several kinds of records that are public. See § 301. Any requester may inspect a public record free of charge during normal working hours, subject to §§ 203 and 204. See § 201(1).

- **Private records:** Private records are records about individuals that contain personal information, such as medical or personal financial information. See § 302. Private records are ordinarily available only to the subject of the record or to a person with written permission from the subject.

- **Controlled records:** If a governmental entity reasonably believes that release of a medical, psychiatric, or psychological records to the individual who is the subject of that information would be detrimental to the subject's mental health or to the safety of any individual, or would constitute a violation of normal professional practice and medical ethics, the record may be classified “controlled.” See § 303. Controlled records ordinarily may be released only to a physician, psychologist, certified

social worker, insurance provider or agent, or a government public health agency with a release from the subject, and that person or entity may not disclose the information to the subject. See § 202(2).

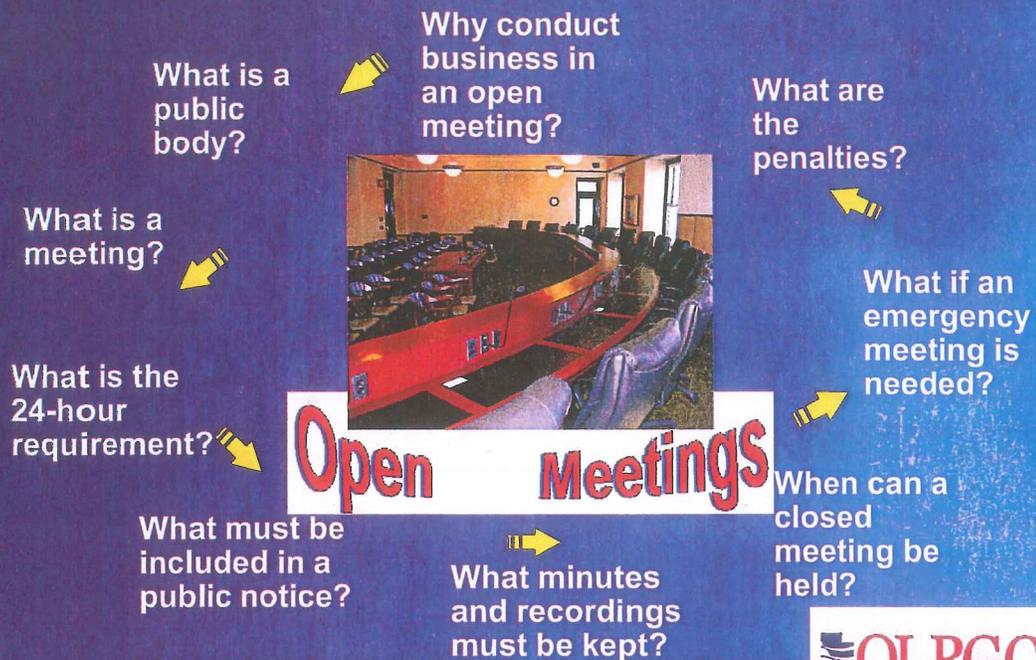
- Protected records: Protected records are records that may be kept confidential to protect various interests, including: - business interest in the case of information that would give competitors an advantage if disclosed, and - the public interest in the case of information where confidentiality is necessary to prevent persons from gaining an unfair advantage by means of information held by their government.

Protected records are originally available only to the person that submitted the records or to an individual who has written authorization from all individuals or entities whose interests are sought to be protected. A 2001 amendment also allows disclosure of protected records to the owner of a mobile home park, subject to the conditions of Utah Code § 41-1a-116(5).

- Limited records: Access to some government records is limited by the specific law that authorizes or requires the keeping of the record. Examples include the Family Educational Rights & Privacy Act (FERPA), the federal Health Insurance Portability & Accountability Act of 1996 (HIPAA) and federal Medicaid laws. If there is an applicable statute, federal regulation, or court rule, GRAMA only applies to the extent that it does not conflict with that statute, regulation or rule. See §§ 201(3)(b) and 201(6).

It is important to note that a record may not be classified as private, controlled, protected or limited unless specifically authorized by GRAMA or another law, and public release of a record may not be prevented unless confidentiality is specifically allowed by GRAMA or another law. See §§ 201(4) and 201(6). It should also be recognized that in some circumstances, any record may be released to the public. See § 202(9)

Open and Public Meetings Act* Title 52, Chapter 4, Utah Code



*This briefing is provided for the convenience of the Legislature, other public bodies, and citizens. Users should consult the Utah Code for definitive provisions of the Open and Public Meetings Act.

May 2010



Open and Public Meetings Act Training

“The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.”

Source: Section 52-4-104 Utah Code
May 2010



Key Definitions – Continued

- ◆ “Meeting” ≠
 - ▶ A chance meeting
 - ▶ A social meeting; or
 - ▶ A convening solely for discussion or implementation of administrative or operational matters if:
 - no formal action is taken or
 - the matters would not come before the body for discussion or action

- ◆ “Public body” ≠
 - ▶ Political party, political group or political caucus or
 - ▶ Conference committee, rules committee, or sifting committee of the Legislature

Source: Section 52-4-103 Utah Code

May 2010



Meetings are Open

A meeting is open to the public unless closed in accordance with the act

- ◆ Open meetings include:
 - ▶ Regular meetings
 - ▶ Special meetings
 - ▶ Workshops
 - ▶ Executive sessions
 - ▶ Site visits
 - ▶ Traveling tours
- ◆ Closed meetings have specific restrictions

Source: Section 52-4-103, 52-4-201 Utah Code

May 2010



Closed Meetings – Vote Exceptions

2/3 vote to close a meeting exceptions:

- ◆ No vote is required to close a meeting for the Independent Legislative Ethics Commission to review an ethics complaint
- ◆ A majority vote is required to close a meeting for an ethics committee of the Legislature to obtain legal advice on legal, evidentiary, or procedural matters or for conducting deliberations on a complaint
- ◆ A majority vote is required to close a meeting that is required to be closed which includes certain reviews of child welfare reports on the death of a child under Section 62A-16-301

Source: Section 52-4-204 Utah Code
May 2010



Public Notice

“A public body shall give not less than 24 hours public notice of each meeting”

- ◆ The public notice must include:
 - ▶ the agenda (providing reasonable specificity to notify the public as to the topics to be considered - listed as agenda items)
 - ▶ the date, time, and place
- ◆ The public notice must be:
 - ▶ posted at the principal office of the public body, or if none exists, at the building where the meeting is to be held
 - ▶ posted on the Utah Public Notice Website (see www.utah.gov/pmn) (with exceptions for certain small entities)
 - ▶ provided to:
 - at least one newspaper of general circulation within the jurisdiction; or
 - a local media correspondent
- ◆ Public notice of an annual meeting schedule must be provided if the public body holds regular meetings

Source: Section 52-4-202, 63F-1-701 Utah Code
May 2010



Minutes and Recordings – continued

- ◆ **For open meetings**, the written minutes are the official record of action taken and must include:
 - ▶ the date, time, place, and the names of all members present and absent
 - ▶ the substance of all matters discussed which may include a summary of comments made by the members
 - ▶ a record of each vote of each member
 - ▶ the name of each person who, after being recognized, provided comments and the substance in brief of each person's comments
 - ▶ other information that is a record of the proceedings that a member requests to be entered in the minutes
- ◆ A recording shall be complete and unedited from start to finish of the meeting **open or closed** and be properly labeled
- ◆ **For closed meetings**, the recording and any minutes must include:
 - ▶ The date, time, and place and names of all members present and absent
 - ▶ The names of all other present except where the disclosure would infringe on necessary confidentiality to fulfill the purpose of the closed meeting

Source: Section 52-4-203, 52-4-206 Utah Code
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Minutes and Recordings – continued

- ◆ Written minutes and recordings of **open meetings** are public records under GRAMA
- ◆ A public body must establish procedures for approval of written minutes
- ◆ Written minutes prepared in a form awaiting only formal approval are a public record
- ◆ Written minutes shall be available with a reasonable time after the meeting
- ◆ A recording of an open meeting shall be available to the public for listening within three business days after the meeting
- ◆ **Closed meetings** minutes and recordings are protected or private records under GRAMA

Source: Section 52-4-203, 52-4-206 Utah Code
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Penalties

The attorney general and the county attorneys shall enforce this chapter

- ◆ Any final action taken in violation of the act is voidable by a court
 - ▶ A suit to void a final action must be commenced within 90 days after the action (30 days for bonding instruments)
- ◆ A closed meeting violation is a class B misdemeanor
- ◆ If closed meeting is challenged, a court shall review the recording or minutes (in private) and determine whether a violation occurred
 - ▶ If the judge determines a violation occurred, the judge shall publicly disclose all information about the portion of the meeting that was illegally closed

Source: Section 52-4-302, 52-4-303, 52-4-304, 52-4-305 Utah Code

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