

Below is the message from Administrative Rules, followed by the petition:

Brady Eames sent a message to us yesterday with the subject line of "PETITION FOR A RULE CHANGE TO STATE RECORDS COMMITTEE to Williams & Dean".

The Utah Administrative Rulemaking Act at Section 63G-3-601 (see <https://le.utah.gov/xcode/Title63G/Chapter3/63G-3-S601.html>) permits these petitions.

What this means for the state records committee:

The committee now has 60 days (today, 25 Aug 2022 is day 1; 23 Oct 2022 will be day 60) to respond to Mr. Eames' petition.

The response may either be:

1. a denial in writing, stating the reasons for the denial; or
2. engaging in rulemaking.

Brady Eames

Wed, Aug  
24, 4:59  
PM

## **PETITION FOR A RULE CHANGE**

### **Acronyms and/or Terms Used in the Petition**

**Utah** is the State of Utah established January 4, 1896

**SRC** are the appointed and ex officio members of the **Utah** State Records Committee

**Chair** is the appointed chair of the **SRC**

**Chair Pro Tem** is the appointed **Chair** of the **SRC** for the time being

**Executive Secretary** is the appointed executive secretary of the **SRC**

**Other Member** is an appointed member of the **SRC** other than the **Chair** who is selected by the **Executive Secretary**

**UC** is a **Utah** enacted law that has been codified

**DARS** is the **Utah** Division of Archives and Records Services

**DTS** is the **Utah** Division of Technology Services

**UPNW** is the **Utah** Public Notice Website created by the **DARS** and the **DTS** and administered by the **DARS**

**R** is a proposed and adopted **Utah** administrative rule

**OPMA** is the **Utah** Open and Public Meetings Act as amended

To: **SRC**

Attn:

**Kenneth Williams-Chair**

**Nancy Dean-Chair Pro Tem**

**Petitioner:**

**Brady Eames**

[REDACTED]

[REDACTED]

[REDACTED]

#### **STATED INTEREST**

The **Executive Secretary, Chair** and **Other Member** have collectively and repeatedly met to engage in consultation in order to opine that I have not met my statutory burden under **UC 63G-2-402** to prove that I have been denied inspection of a record and to therefore order that I shall be declined an appellate hearing before a quorum of the **SRC**. However, such three public officers have taken such actions *without* having:

(A) made and posted public notices in the **UPNW**,

(B) convened and conducted open and public meetings to engage in consultation regarding, receive public comments about and vote for such declination,

(C) kept and posted approved minutes of such meetings in the **UPNW**,

and

(D) kept and posted audio recordings of such meetings in the **UPNW**.

**STATEMENT AS REQUIRED BY UC 63G-3-601(4)**

Under **R35-2-2**, the **Executive Secretary, Chair and Other Member** are cloaked with the jurisdiction to opine that a person has not been denied inspection of a record and to order the declination of an appellate hearing before a quorum of the **SRC**. Certainly it's appropriate to the powers of the **SRC** to be subject to the **OPMA** whenever and wherever they collectively so opine and order.

## **STATED APPROXIMATE WORDING OF THE PROPOSED RULE CHANGE R35-2-2**

### **2. Scheduling and Declining Requests for Hearings.**

**(1)** In order to decline a request for a hearing under Subsection 63G-2-403(4), the Executive Secretary shall consult with

the Committee Chair and at least one other member of the Committee *in an open and public meeting that is convened and conducted in accordance with the Open and Public Meetings Act as amended.*

**(a)** The Committee Chair and one other member of the Committee must both agree with the Executive Secretary's

recommendation to decline to schedule a hearing. Such a decision shall consider the potential for a public interest claim as may be

put forward by the petitioner under the provisions of Subsection 63G-2-403(11)(b). A copy of each decision to decline a hearing

shall be retained in the file.

## **REASON FOR THE CHANGE TO R35-2-2**

The **SRC** is an administrative public body that

**(A)** is created by **R35-2-2(1)**,

**(B)** consists of two or more persons;

**(C)** expends, disburses, or is supported in whole or in part by tax revenue;

and

**(D)** is vested with the authority to make decisions regarding the public's business.

Respectfully petitioned,

BRADY EAMES