

RESOLUTION NO. 2017-09

**A RESOLUTION OF SUMMIT COUNTY SERVICE AREA NO. 3
TO ADOPT A RECORDS POLICY**

PREAMBLE

WHEREAS, Section 63G-2-701 authorizes Summit County Service Area #3 (“Service Area”) to adopt a records policy to govern the classification, designation, access, denials, segregation, appeals, management, retention and amendment of Service Area records;

WHEREAS, the State Auditor has recommended that local districts adopt records policies to ensure compliance with the Government Records Access and Management Act (Sections 63G-2-101 et seq.), and the application of that Act to the Service Area’s records;

WHEREAS, the Service Area desires to adopt a records policy to ensure compliance with State law and to best meet the public’s needs and the operation, management capabilities and resources of the Service Area;

WHEREAS, the Service Area has prepared the following policy, which the Service Area’s legal counsel has reviewed; and

WHEREAS, the Board of Trustees has reviewed the attached policy and believes that adopting the policy will be in the best interests of the Service Area and its residents.

NOW, THEREFORE, be it **RESOLVED** by the Board of Trustees of the Summit County Service Area #3 hereby adopts and approves the attached records policy, which will repeal and replace any previously approved records policy.

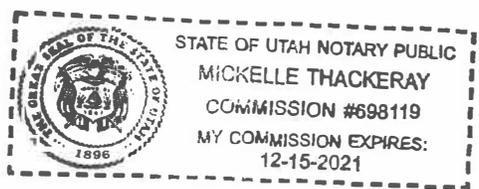
ADOPTED AND PASSED this 21 day of Dec, 2017.

BOARD OF TRUSTEES OF SUMMIT COUNTY SERVICE AREA NO. 3

By: 
Title: Chairperson
VINCENT PAO-BORJIGIN

STATE OF UTAH)
 :SS
COUNTY OF SUMMIT)

On this 21 day of December, in the year 2017, Vincent Pao-Borjigin appeared before me and proved on the basis of satisfactory name of document signer evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.




NOTARY PUBLIC

RECORDS ACCESS AND MANAGEMENT POLICY (GRAMA)

Section 1 - Background

- A. **Policy:** This shall be known as the Summit County Service Area #3 (“SCSA#3”) Government Records Access and Management (“GRAMA”) Policy (“Records Policy”).

- B. **Purpose:** The Records Policy establishes guidelines for open government information recognizing the need to maintain and preserve accurate records, respect the public’s right to access information concerning the conduct of the public’s business, and preserve the right of privacy in relation to personal data gathered by SCSA#3.

Section 2 - SCSA#3 Policy

In adopting this Records Policy, SCSA#3 recognizes the enactment of the Government Records Access and Management Act (Sections 63G-2-101 et seq.) and the application of that Act to SCSA#3 records. The purpose of these policies is to conform to Section 63G-2-701 which provides that each political subdivision may adopt an ordinance or a policy relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention and amendment of records. The intent of this Records Policy is to ensure compliance with state law and to best meet the public needs, operation, management capabilities and resources of SCSA#3.

Section 3 - Compliance with State Law

In adopting the Records Policy, SCSA#3 recognizes the following sections of the Government Records Access and Management Act apply to SCSA#3 and adopts by reference these provisions as part of this Records Policy. Any inconsistency or conflict between this Records Policy and the following reference statutes shall be governed by the statute.

Part 1	<u>General Provisions</u>	
	§§ 63G-2-101	Short title
	§§ 63G-2-102	Legislative intent
	§§ 63G-2-103	Definitions
	§§ 63G-2-104	Admin. Procedures Act not applicable
	§§ 63G-2-105	Confidentiality agreements
	§§ 63G-2-106	Records of security measures
	§§ 63G-2-107	Disclosure of records subject to federal law
	§§ 63G-2-108	Certification of records officer
Part 2	<u>Access to Records</u>	
	§§ 63G-2-201	Right to inspect records and receive copies of records
	§§ 63G-2-202	Access to private, controlled and protected

		documents
	§§ 63G-2-203	Fees
	§§ 63G-2-204	Requests – Time limit for response and extraordinary circumstances
	§§ 63G-2-205	Denials
	§§ 63G-2-206	Sharing records
	§§ 63G-2-207	Subpoenas – Court ordered disclosure for discovery
Part 3	<u>Classification</u>	
	§§ 63G-2-301	Records that must be disclosed
	§§ 63G-2-302	Private records
	§§ 63G-2-303	Private information concerning certain government employees
	§§ 63G-2-304	Controlled records
	§§ 63G-2-305	Protected records
	§§ 63G-2-306	Procedure to determine classification
	§§ 63G-2-307	Duty to evaluate records and make designations and classifications
	§§ 63G-2-308	Segregation of records
	§§ 63G-2-309	Confidentiality claims
	§§ 63G-2-310	Records made public after 75 years
Part 4	<u>Appeals</u>	
	§§ 63G-2-400.5	Definitions
	§§ 63G-2-401	Appeal to chief administrative officer
	§§ 63G-2-402	Appealing a decision to a chief administrative officer
	§§ 63G-2-403	Appeals to the records committee
	§§ 63G-2-404	Judicial Review
	§§ 63G-2-405	Confidential treatment of records or which no exemption applies
	§§ 63G-2-406	Evidentiary standards for release of certain enforcement and litigation records
Part 5	<u>State Records Committee</u>	
	§§ 63G-2-501	State Records Committee – Membership – Terms – Vacancies – Expenses
	§§ 63G-2-502	State Records Committee – Duties
Part 6	<u>Accuracy of Records</u>	
	§§ 63G-2-601	Rights of individuals on whom data is maintained

	§§ 63G-2-602	Disclosure to subject of records - Context of use
	§§ 63G-2-603	Request to amend
Part 7	<u>Applicability to Political Subdivisions: The Judiciary and the Legislature</u>	
	§§ 63G-2-701	Political subdivisions to enact ordinances in compliance with chapter
Part 8	<u>Remedies</u>	
	§§ 63G-2-801	Criminal penalties
	§§ 63G-2-802	Injunction - Attorney's Fees
	§§ 63G-2-803	No individual liability for certain decisions of a governmental entity
	§§ 63G-2-804	Violation of provision of chapter – Penalties for intentional mutilation or destruction – Disciplinary action

Section 4 - Definitions

As used in this ordinance, the following definitions shall be applicable.

- A. “Act” shall refer to the Government Records Access and Management Act, §§ 63G-2-101, *et seq.*, Utah Code Annotated, 1953, as amended.
- B. “Audit” means a systematic examination of financial, management, program and related records for the purpose of determining SCSA#3’s fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.
- C. “Computer software program” means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. “Software” does not include the original data or records which is manipulated by the software.
- D. “Classification,” “classify,” and their derivative forms means determining whether a record series, record, or information within a record is public, private, controlled, protected or exempt from disclosure under Subsection 63G-2-201.
- E. “Computer program” means software that permits the functioning of a computer system; it does not mean the original data, compilation and other manipulated forms of original data produced by use of the program.

- F. "Contractor" means any person who contracts with the SCSA#3 to provide goods or services to SCSA#3.
- G. "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.
- H. "Data" shall refer to individual entries (for example, birth date, address, etc.) in records.
- I. "Designation" is the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.
- J. "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.
- K. "SCSA#3" shall refer to the Summit County Service Area #3 or any public or private entity which, pursuant to contract with SCSA#3, has agreed to produce and maintain public records.
- L. "SCSA#3 Chair" shall refer to the Chair of the Board of Trustees of the Summit County Service Area #3.
- M. "Private record" means a record containing any data on individuals that is private as provided by Section 63G-2-302.
- N. "Protected record" means a record that is classified protected as provided by Section 63G-2-305.
- O. "Public record" means a record that is not private, controlled or protected as provided by Section 63G-2-302.
- P. "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics, prepared, owned, used, received, or retained by SCSA#3 where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.
 - (1) "Record" does not mean:
 - (a) A personal note or personal communication prepared or received by an employee or officer of the SCSA#3 in the employee's or officer's private capacity.
 - (b) A temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom the originator is working;
 - (c) Material that is legally owned by an individual in the individual's private capacity;

- (d) Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by SCSA#3;
 - (e) Junk mail or commercial publication received by SCSA#3 or by an officer or employee of SCSA#3;
 - (f) A daily calendar or personal notes prepared by any SCSA#3 employee for personal use or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process of pursuant to matters discussed in a meeting closed pursuant to Utah Open Meetings Act; or
 - (g) Proprietary Computer Software Programs as defined in subsection 4.C. above that are developed or purchased by or for SCSA#3 for its own use.
 - (h) A telephone number or similar code used to access a mobile communication device that is used by an employee or officer of SCSA#3, provided that the employee or officer of SCSA#3 has designated at least one business telephone number that is a public record as provided in Section 63G-2-301.
- Q. “Record Series” means a group of records that may be treated as a unit for purposes of designation, description, management or disposition.
- R. “Records Officer” means the individual appointed by SCSA#3 to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records
- S. “Schedule” or “scheduling” means the process of specifying the length of time each record series should be retained by SCSA#3 for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.
- T. “State Archives” means the Division of Archives and Records Service created in Section 63A-12-101.

Section 5 - Public Right to Records

- A. Every person has the right to inspect a public record free of charge, and the right to take copies, in any format maintained by SCSA#3, of all SCSA#3 governmental records defined as “public” under the provisions of this Records Policy, upon the payment of the lawful fee and pursuant to the provisions of this Records Policy and the Act.
- B. SCSA#3 has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.
- C. When a record is temporarily held by a custodial SCSA#3 agency, pursuant to that custodial agency’s statutory functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this Records Policy. The record shall be considered a record of SCSA#3 and any requests for access to such records shall be directed to SCSA#3, rather than the custodial agency, pursuant to these procedures.

Section 6 - Public, Private, Controlled and Protected Records

- A. Public records shall be those SCSA#3 records as defined in the Act, §§ 63G-2-201 (U.C.A., 1953, as amended). Public records shall be made available to any person. All SCSA#3 records are considered public unless they are (1) expressly designated private, controlled or protected by SCSA#3 in accordance with policies and procedures established by this Records Policy, (2) are so designated private, controlled or protected as defined by the Act, or (3) are made non-public by other applicable law.
- B. Private records shall be those SCSA#3 records classified as “private,” as defined in the Act §§ 63G-2-302 (U.C.A., 1953, as amended) and as designated, classified, or defined in procedures established pursuant to this Records Policy. Private records shall be made available to the following persons: The subject of the record, the parent or legal guardian of a minor who is the subject of the record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has a power of attorney or submits a notarized release from the subject of the record or the individual’s legal representative dated no more than 30 days before the date of the request is made, or any person to whom the record must be provided pursuant to court order signed by a judge from a court of competent jurisdiction, or any person serving a legislative subpoena.
- C. Controlled records shall be those SCSA#3 records classified as “controlled,” as defined in the Act, §§ 63G-2-304 (U.C.A., 1953, as amended) and as designated, classified, or defined in procedures established in this Records Policy. Controlled records shall be made available to a physician, psychologist, or licensed social worker who submits a notarized release from the subject of the record or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.
- D. Protected records shall be those SCSA#3 records classified as “protected,” as defined in the Act, §§ 63G-2-305 (U.C.A., 1953, as amended) and as designated, classified or defined in procedures established in this Records Policy. Protected records shall be made available to the person who submitted the information in the record, to a person who has power of attorney or notarized release from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding the release of the information and signed by a judge of competent jurisdiction.

Section 7 - Privacy Rights

- A. SCSA#3 recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records.
- B. SCSA#3 may, as determined appropriate by the SCSA#3 Chair, notify the subject of a record that a request for access to the subject’s record has been made.

C. SCSA#3 may require that the requester of records provide a written release, notarized within thirty (30) days before the request, from the subject of the records in question before access to such records is provided.

Section 8 - Designation, Classification and Retention

- A. Procedure to Determine Classification. If more than one provision of this Records Policy could govern the classification of a record, SCSA#3 shall classify the record by considering the nature of the interest intended to be protected and the specificity of the competing provisions.
- B. SCSA#3 has adopted the Classification Schedule Guidelines below, but may classify a particular record, record series, or information within a record at any time. SCSA#3 recognizes it is not required to classify a particular record, record series, or information until access to the record is requested.
- C. SCSA#3 may re-designate a record series or reclassify a record or record series, or information within a record at any time.

CLASSIFICATION SCHEDULE GUIDELINES

Code ref.	Classification	
63G-2-301	Public	A record is presumed public unless otherwise expressly prohibited by statute. Public records include but are not limited to: minutes from open meetings; contractor compensation; names, gender and gross compensation paid to public employees; records relating to formal charges or disciplinary actions of a government employee.
63G-2-302	Private	<ul style="list-style-type: none"> • Records concerning an individual’s eligibility for unemployment insurance benefits, social services, welfare benefits or the determination of benefit levels. • Records containing data on an individual’s describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data. • Employment records concerning a current or former employee of, or applicant for employment with, SCSA#3 that would disclose that individual’s home address, home telephone, social security number, insurance coverage, marital status, payroll deductions, performance evaluations and personal status information (race, religion, disabilities). • Medical records, including medical reports, records, statements, history, diagnosis, condition, treatment and evaluation

63G-2-304	Controlled	Records containing medical, psychiatric or psychological data about an individual when SCSA#3 reasonably believes that releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual.
63G-2-30	Protected	<ul style="list-style-type: none"> • Records the disclosure of which would impair SCSA#3 procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement, including requests for bids, request for proposals, or other similar document [Once the contract has been awarded this information is re-classified Public.] • Records that would identify real property or the appraisal or estimated value of real or personal property under consideration for public acquisition before any rights to the property are acquired, unless the estimated value of the property has already been made public by other means, or the public interest outweighs SCSA#3's need to acquire the property on the best terms possible. • Records the disclosure of which would jeopardize the security of SCSA#3 property, programs or record-keeping systems. • Records prepared by or on behalf of a governmental entity solely in anticipation of litigation that are not available under the rules of discovery. • Records disclosing an attorney's work or other SCSA#3 representative's work concerning litigation. • Records of communication between SCSA#3 and an attorney representing SCSA#3 if communications would be considered privileged by law. • Transcripts, minutes, or reports of the closed portion of a meeting of SCSA#3, unless otherwise provided by law. • Accident reports, except as required by law. • Notification of workers' compensation insurance coverage.

D. All SCSA#3 records and records series, of any format, shall be designated, classified and scheduled for retention according to the provisions of the Act and this Records Policy. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation classification and scheduling for retention shall be conducted under the supervision of SCSA#3 Records Officer.

Records Retention Schedule

Record	Classification	Retention
Meeting Minutes	Public	Permanent
Meeting Agenda	Public	2 Years
Annual Financial Reports	Public	Permanent
Budgets	Public	Permanent
Bank Statements	Public	4 Years
General Ledger	Public	10 Years
Timesheets	Public	3 Years
A/R & A/P	Public	4 Years
Deposit Slips	Public	4 Years
Check Register	Public	7 Years
Receipt Books	Public	3 Years
Fixed Asset Lists	Public	10 Years

Section 9 - Procedures for Records Request

- A. Under circumstances in which a SCSA#3 is not able to immediately respond to a records request, the requester shall fill out and present to the SCSA#3 a written request on forms provided by SCSA#3. The date and time of the request shall be noted on the written request form and all time frames provided under this Records Policy shall commence from that time and date.
- B. The Request Form shall be referred directly to the SCSA#3 Chair, or designee. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.
- C. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, SCSA#3 shall respond to the request by: approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures.
 - (1) The following “extraordinary circumstances” shall justify SCSA#3’s failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto that time reasonably necessary to respond to the request, as determined

by the SCSA#3 Chair. Extraordinary circumstances shall include but not be limited to the following:

- (a) Another governmental entity is currently and actively using the record requested, in which case SCSA#3 will promptly request its return.
- (b) Another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit.
- (c) The record requested is for either a voluminous quantity of records or records series and requires SCSA#3 to review a large number of records or perform extensive research to locate the materials requested;
- (d) The requester seeks a substantial number of records or record series in requests filed within five working days of each other.
- (e) SCSA#3 is currently processing either a large number of records requests or is subject to extraordinary seasonal workloads in the processing of other work;
- (f) The request involves an analysis of legal issues to determine SCSA#3's proper response to the request;
- (g) The request involves extensive editing to separate public data in a record from that which is not public; or
- (h) Providing the information request requires computer programming or other format manipulation.

(2) When a record request cannot be responded to within ten (10) days, SCSA#3 Chair shall give the requester an estimate of the time required to respond to the request.

D. The failure or inability of SCSA#3 to respond to a request for a record within the time frames set out herein, or SCSA#3's denial of such a request, shall give the requester the right to appeal as provided in Section 11.

Section 10 - Fees

A. Applicable fees for the processing of information requests under this Records Policy shall generally be set at actual cost or as otherwise established by policies adopted under this Records Policy. SCSA#3 representatives are encouraged to fill a GRAMA request without charge when (1) releasing the record will benefit the public; (2) the requester is the subject of the records; or (3) the requester's legal rights are implicated and they claim hardship. If none of the preceding circumstances are applicable, SCSA#3 will charge the following fees for requests relating to the Government Records Access and Management Act:

REQUEST	APPLICABLE FEE
Reviewing a record to determine whether it is subject to disclosure	No Charge
Inspections of record by requesting person	No Charge
Copy Fees – black and white (SCSA#3 prepared)	25 cents per page
Copy Fees - Color (Offsite)	Commercial Rate
Computer Disk	\$10 per disk, plus Actual Cost*
Other Forms	Actual Cost*

Miscellaneous Fees	Actual Cost*
* Overhead and time of SCSA#3 staff in preparation of information request, billed at hourly charge of lowest paid employee who has the necessary skill and training to perform the request. No charge is made for the first quarter hour of staff time; thereafter, charge will be at a one hour minimum.	

Section 11 - Appeal Process

- A. Any person aggrieved by SCSA#3’s denial or claim of extraordinary circumstances may appeal the determination within 30 days after notice of SCSA#3’s action to the SCSA#3 Chair by filing a written notice of appeal. The notice of appeal shall contain the petitioner’s name, address, daytime phone number, relief sought and if a petitioner desires, a short statement of the facts, reasons and legal authority in support of the appeal.
- B. If the appeal involves a record that is subject to business confidentiality claim or affects the privacy rights of an individual, the SCSA#3 Chair shall send a notice of the requester’s appeal to the affected person.
- C. The SCSA#3 Chair shall make a determination on the appeal within the following period of time (1) within five business days after the SCSA#3 Chair’s receipt of the notice of appeal; or (2) within twelve business days after SCSA#3 sends the requester’s notice of appeal to the affected party. During this period the SCSA#3 Chair may schedule an informal hearing or request any additional information deemed necessary to make a determination. The SCSA#3 Chair shall send written notice to all participants providing the reasons for the SCSA#3 Chair’s determination.
- D. In addition, if the SCSA#3 Chair affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the State Records Committee within thirty days in accordance with Section 63G-2-403 U.C.A..

Section 12 - Reasonable Accommodation

- A. Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with the Americans with Disabilities Act upon request of the applicant.

Section 13 - Records Amendments

Government records held by SCSA#3 may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to SCSA#3 having custody of the records and setting forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, both the original record and the amended or corrected records shall be retained, unless provided otherwise by the Act or other - state or federal law.

Section 14 - Penalties

- A. SCSA#3 employees who knowingly refuse to permit access to records in accordance with the Act and this Records Policy, who knowingly permit access to non-public records, or who knowingly, without authorization or legal authority, dispose of, alter, or remove records, or allow other persons to do so in violation of the provisions of the Act, this Records Policy or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.
- B. In accordance with the Act, neither SCSA#3 nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

Section 15 - Records Officer

There shall be appointed a SCSA#3 Records Officer to oversee and coordinate records access, management and archives activities. The Records Officer shall make annual reports of records services activities to the Board of Trustees.

Section 16 - Records Maintenance

- A. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve SCSA#3 records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of SCSA#3 records. The Records Officer shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records.
- B. All SCSA#3 records shall remain the property of SCSA#3 unless federal or state legal authority provides otherwise. Property rights to SCSA#3 records may not be permanently transferred from SCSA#3 to any private individual or entity, including those legally disposable obsolete SCSA#3 records. This prohibition does not include the providing of copies of SCSA#3 records otherwise produced for release or distribution under this chapter.
- C. Custodians of any SCSA#3 records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the SCSA#3 Records Officer.

Section 17 - Forms

When possible, the Records Officer will use the GRAMA request form developed by the Utah State Archives, the current version of which is attached to this Records Policy and is available at <https://www.archives.utah.gov/recordsmanagement/forms/GRAMA-request-form.pdf>.