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July 31, 2013

Hand-Delivered

John Dougall, Utah State Auditor
Utah State Capitol Complex
East Office Building, Suite E310
Salt Lake City, UT 84114

Re: Notice of Appeal of GRAMA Determination dated July 1, 2013

Dear Mr. Dougall:

On June 18, 2013 this office submitted a Government Records Access and Management Act ("GRAMA") request to the Office of the Utah State Auditor. In a July 2, 2013 email we received a letter dated July 1, 2013 from Linda Siebenharr, records officer of the Office of the Utah State Auditor, denying that GRAMA request. Pursuant to Utah Code §63G-2-401 that denial is hereby appealed.

Although not disclosed in the June 18th correspondence, this office represents the Board of Education of Salt Lake City School District. The Board and the District (collectively, referred to as the "District"), and this office believe that we are entitled to the records sought. In the June 18th correspondence we requested the following:

1. Any correspondence, email or other communication between the Office of the Utah State Auditor and any other party regarding the Board of Education of Salt Lake City School District or the Salt Lake City School District (collectively referred to as the "District").
2. Records related to any complaints about the District received by the Office of the Utah State Auditor from any individual or entity; and
3. Any documents provided to the Office of the Utah State Auditor under the its [sic] hotline program that relate to the District.

Ms. Siebenharr's denial acknowledged that there are three hotline complaints that are responsive to those requests but declined to provide those records for the following reasons:

- For one complaint, the records are part of an ongoing investigation by Office of the Utah State Auditor and have, therefore, been classified as "protected" pursuant to Utah Code §63G-2-305(16).

- For one complaint, the Office of the Utah State Auditor made the determination that no investigation was warranted and the matter was closed. These records have been classified as “protected” pursuant to Utah Code §63G-2-305(10).
- One Complaint was referred to the Internal Auditor at the Utah State Office of Education by the Office of the Utah State Auditor. These records have been classified as “protected” pursuant to Utah Code §63G-2-305(10).

The District believes that the three (3) complaints are subject to disclosure under GRAMA. First with regard to the complaint that your office states is designated as protected under Section §63G-2-305(16), the District only seeks the actual complaint that was provided via the hotline. The complaint is not the work of or investigation by the Office of the Utah State Auditor. Furthermore, the Utah State Auditor’s hotline information on the internet states “the identity of the complainant is considered protected information under the Utah Government Records Assess Management Act (Utah Code Section 63G-2-305) if the complainant requests anonymity from parties outside the office.” <http://auditor.utah.gov/hotline/>. The District is certainly willing to have the complainant’s name redacted from the complaint if the complainant requested anonymity.

Second, with regard to the complaints that you claim are protected under §63G-2-305(10), the Utah Supreme Court has interpreted that provision to apply only to ongoing matters and not those that have been completed. In *Deseret News Publishing Company vs. Salt Lake County*, the Utah Supreme Court was asked to interpret Section 63-2-304(9) which is the predecessor of and identical to the current provision found in Section 63G-2-305(10). The *Deseret News* court held that the statutory language related to ongoing matters and not matters that had been concluded. *Deseret News Publishing Company vs. Salt Lake County*, 182 P.3d 372, ¶¶41-46 (Utah 2008).

Accordingly, the District and this office hereby requests that the three (3) complaints be provided as they are not “protected” records under GRAMA. Pursuant to §63G-2-401, I provide the following information:

Requestor’s Name: John Robson/Board of Education of Salt Lake City School District
Mailing Address: 215 South State Street, Suite 1200, Salt Lake City, UT 84111
Daytime Telephone Number: 801-323-2217

Respectfully submitted this 31st day of July, 2013.


John E. S. Robson