



Linda Siebenhaar <lsiebenhaar@utah.gov>

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## FW: Response to GRAMA Request

1 message

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**Steve Rawlings** <rawlings@co.davis.ut.us>

Thu, Apr 24, 2014 at 8:59 AM

To: "lsiebenhaar@utah.gov" <lsiebenhaar@utah.gov>

Cc: Troy Rawlings <troy@co.davis.ut.us>, Michael Kendall <MKendall@co.davis.ut.us>, Doug Stone <dstone@co.davis.ut.us>, Yvonne Christensen <fellows@co.davis.ut.us>, Neal Geddes <NGeddes@co.davis.ut.us>

Mrs. Siebenhaar,

I was quite puzzled with the assertions and warnings issued to me in your recent response to my official GRAMA request. I obtained legal advice before sending the email on my work computer and followed that advice. After receiving your email I forwarded to our legal team and they have responded with the attached for your reference and for you to have an official response to your allegations and/or threats.

Steve S. Rawlings

Davis County Clerk/Auditor

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**From:** Steve Rawlings

**Sent:** Thursday, April 24, 2014 8:55 AM

**To:** 'Linda Siebenhaar '

**Cc:** Troy Rawlings; Yvonne Christensen; Michael Kendall; Doug Stone; Neal Geddes

**Subject:** RE: Response to GRAMA Request

Mrs. Siebenhaar,

I was quite puzzled with the assertions and warnings issued to me in your recent response to my official GRAMA request. I obtained legal advice before sending the email on my work computer and followed that advice. After receiving your email I forwarded to our legal team and they have responded with the attached for your reference and for you to have an official response to your allegations and/or threats.

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**From:** Troy Rawlings

**Sent:** Thursday, April 24, 2014 7:37 AM

**To:** Steve Rawlings; Michael Kendall; Neal Geddes; Doug Stone; Yvonne Christensen;

**Subject:** RE: Response to GRAMA Request

Mr. Rawlings,

I received your message related to the letter from the Utah State Auditor's Office. I have reviewed it. Your concerns related to the below quoted paragraph are legitimate. The OSA assertion (1) that a GRAMA for documents and information is "political activity" or for "political purposes" and (2) that you cannot use your work email for transacting such business with the State of Utah is ludicrous law. We will address the issues in more depth as necessity requires.

Answers for now:

1. Is the State Auditor's April 21<sup>st</sup> letter responding to your GRAMA request itself politically motivated and/or an attempt to get you to take or refrain from taking some action? The answer will have to come directly from OSA. If they had reviewed or understood the law, the letter would not have included inflammatory statements.

2. No, a GRAMA request for audit information directed to the Utah OSA is not a "**political purposes**" act as defined by the Utah Code, nor is it prohibited "**political activity**" as per Davis County policies. I doubt OSA read the definitions as their implication is recklessly at best. See the applicable definitions of "*political purposes*" and "*political activity*". A GRAMA request for information from that office is nowhere on the radar screen of the law:

**20A-11-101. Definitions.**

As used in this chapter:

(37) "**Political purposes**" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

**\*\*\*\*20A-11-1202. Definitions. [NOTE THIS DEFINITION SECTION IS DIRECTLY IN FRONT OF THE PROHIBITION OSA QUOTES WHEN NOT UNDERSTANDING WHAT IT MEANS]**

(8) "**Political purposes**" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

## **DAVIS COUNTY MERIT SYSTEM ORDINANCE 18**

### **POLITICAL ACTIVITY**

**2.0 POLITICAL ACTIVITY.** Except as otherwise provided by law, County employees may voluntarily participate in political activity subject to the provisions of the Davis

County Merit Ordinance. All such persons may voluntarily contribute funds to political groups and become candidates for public office. The intent of this provision is to allow the individual

freedom of political expression without jeopardizing public programs for which they are responsible.

**2.1** No County officer or employee, whether elected or appointed may directly or

indirectly coerce, command, advise, or solicit any officer or employee covered under the Merit

System to pay, lend, or contribute part of their salary or compensation or anything else of value

to any party, committee, organization, agency, or person for political purposes. No County

officer or employee, whether elected or appointed may attempt to make any officer's or

employee's personnel status dependent upon the employee's support or lack of support for any

political party, committee, organization, agency, or person engaged in a political activity.

### **63G-2-103. Definitions.**

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(10) "Government audit agency" means any governmental entity that conducts an audit.

3. The reasons you articulated for the GRAMA request are valid and proper. Your intended use of information for OSA to potentially assist your office is appropriate (Civil Division Chief Deputy Neal Geddes and I discussed what you relayed to us in this regard).

4. Yes, you can use your work computer and email to make a GRAMA request for information from the State of Utah, as you can when communicating with them for a variety of purposes. You do not need to play a game and pretend it is not for your office use when it is. Frankly, their implication otherwise is absurd. Further, using your county work email and/or computer is not prohibited in the section outlining what is to be in a GRAMA request:

### **63G-2-204. Requests -- Time limit for response and extraordinary**

**circumstances.**

(1) A person making a request for a record shall furnish the governmental entity with a written request containing:

(a) the person's name, mailing address, and daytime telephone number, if available; and

(b) a description of the record requested that identifies the record with reasonable specificity.

5. After talking, Neal Geddes and I agree our best advice is to ignore the language of OSA that troubles you. It is not worth your time. Determine if you want to appeal in an effort to obtain the information you desire to assist your office, but ignore their stunt and let it go.

6. I also note (**significantly**), that the letter omits (cuts off right before) the following portion of the code section the OSA determined to quote at length in their letter (without these provisions):

(14)....

**(b) The provisions of Subsections (14)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.**

(c) The provisions of this Subsection (14) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

**(15) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.**

Troy Rawlings

Davis County Attorney

801-451-4355

“We caution you to be mindful of the Davis County Merit System Ordinance, Chapter 18-2.2, and Davis County Code of Conduct, Computer Policy, which restrict county employees from engaging in political activity during hours of employment and using County computers for political activity. We also draw your attention to *Utah Code* 20A-11-1203(1) which limits a public entity from making expenditures from public funds for political purposes.

Linda Siebenhaar

Records Officer

Office of the Utah State Auditor”

**From:** Linda Siebenhaar [<mailto:lsiebenhaar@utah.gov>]

**Sent:** Monday, April 21, 2014 4:06 PM

**To:** Steve Rawlings

**Subject:** Response to GRAMA Request

Mr. Rawlings:

Attached is my response to your GRAMA request dated April 14, 2014.

Linda Siebenhaar

Records Officer

Office of the Utah State Auditor