

# UTAH TRANSIT AUTHORITY CORPORATE POLICY

## No. 1.1.21

### PRIVACY

I. Purpose. Utah Transit Authority (“UTA”), in the regular course of its business, receives information about individual customers, employees and members of the public. Some of the information, if released, could harm these people and could violate their privacy. This Policy establishes policy and provides guidance on restricting access to records relating to individuals, guarantees the person who is the subject of a record access to the record and establishes a procedure to correct any misstatements of fact contained in the record.

II. Policy. It is the policy of UTA to protect the privacy of individuals who are the subjects of records maintained by UTA, by generally preventing the disclosure of records without the permission of the person who is the subject of the record and by providing individuals: access to their information contained in UTA System of Records; an accounting of disclosures; and an opportunity to request amendment of those records. UTA will interpret and apply this Policy consistent with the Utah Governmental Records Access and Management Act, Utah Code Ann. §§ 63G-2-101 *et seq.* and practice.

To facilitate the understanding of this policy, it is organized as follows:

- 1.0 Scope of the Policy
- 2.0 Definitions.
- 3.0 Responsibilities
- 4.0 Conditions of Disclosure
- 5.0 Standard Operating Procedures
- 6.0 Fees, Judicial Review and Discipline
- 7.0 Exemption

1. Scope of the Policy. This Policy establishes a means to regulate the collection, use and safeguarding of personal data. It applies to information maintained by UTA and is intended to protect individual privacy by establishing rules regarding the collection and use of data, establishing rights for the data.

2. Definitions.

- a. “Day” does not include Saturday, Sunday or legal holiday.
- b. “GRAMA” means the Utah Governmental Records Access and Management Act, codified at Utah Code Ann. §§63G-2-101 *et seq.*

- c. "Individual" means a natural, living person but does not include a person doing business with UTA in the role of sole proprietor.
- d. "Maintain" includes maintain, collect, use or disseminate.
- e. "Personnel Records" refers to records contained in a System of Records, such as the Official Personnel files, medical files, and retirement files, maintained by the Department of Human Resources.
- f. "Receipt" means receipt of a request by the Records Officer.
- g. "Record" mean any item, collection, or grouping of information about an individual that is maintained by or for UTA, regardless of format, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains the individual's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.
- h. "Registered User" mean an individual or entity who/that has registered an electronic fare collection card (such as Eco Pass, Ed Pass, smart card or other credit card) with UTA.
- i. "Routine Use" means, with respect to the disclosure of a Record, the use of such Record for a purpose that is compatible with the purpose for which it was collected.
- j. "Statistical Record" means a maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual.
- k. "UTA Personnel" means any officer, employee, contractor or agent of UTA.

### 3. Responsibilities.

- 3.1 Contracting officers shall be responsible for ensuring that the appropriate requirements of this Policy are in any contract, where a contractor is responsible for creating, operating or maintain Records to accomplish a UTA function.
- 3.2 The Senior Human Resources Officer shall be responsible for responding to requests relating to non-medical Personnel Records of current employees and for keeping a record of the actions taken in regard to requests regarding Personnel Records.

- 3.3 The Public Relations Department shall be responsible for assuring that a current copy of this Policy is posted on UTA's internet website.
- 3.4 The Records Officer shall be responsible for complying with the record-keeping requirements involving circumstances where Records are disclosed. The Records Officer shall take reasonable steps to ensure that records which are disclosed, except in the case of Routine Uses, are accurate and complete.
- 3.5 The Privacy Administrator is the person responsible for administering this Policy. He or she shall ensure timely response to requests for access to Records; shall attempt to provide notice when Records are obtained pursuant to compulsory legal process; shall review the Privacy Notices drafted by Custodians as required by paragraph 7.6.4 and shall ensure that the final notices are transmitted to the Public Relations Department to be posted on UTA's internet website.
- 3.6 A Responsible Official is an Executive, Manager or head of an department or business unit or independent office who shall be responsible for the implementation of this Policy for his/her department/office, including determining which personnel in their offices or department must sign an Information Protection Statement annually, ensuring that all such personnel execute Information protection Statements annually, and filing copies of these statements in the employee's personnel file.
- 4.0 Conditions of Disclosure.
- 4.1 UTA shall not disclose any Record by any means of communication to any person, or to another governmental agency, except pursuant to a written request by the individual to whom the Record pertains or with his or her prior written authorization unless disclosure of the Record is:
- 4.1.1 To UTA Personnel who have a need for the Record in the performance of their duties, which need should be related to the purpose for which the Record is maintained;
- 4.1.2 For a Routine Use;
- 4.1.3 To appropriate Federal, State, local agencies or other public entities responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity, pursuant to a GRAMA request;
- 4.1.4 To a requestor who has provided UTA with advance adequate written assurance that the Record will be used solely as a statistical

research or reporting Record, and the Record is to be transferred in a form that is not individually identifiable;

- 4.1.5 To any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to a UTA decision;
- 4.1.6 To contractors, grantees, the Federal government, or other governmental entity, consultants, volunteers or other parties performing or working on a contract, service, grant, cooperative agreement, memorandum of understanding, job, or other activity on behalf of or for the benefit of UTA and who have a need to have access to the information in the performance of their duties or activity for UTA, which need should be related to the purpose for which the record is maintained, pursuant to a GRAMA request. When appropriate, recipients will be required to comply with the requirements of this Privacy Policy;
- 4.1.7 To authorized unemployment compensation appeal hearing officers and investigators, Utah Anti-Discrimination Division investigators, adjudicators and hearing officers, Equal Employment Opportunity investigators, arbitrators or other persons properly engaged in investigation or settlement of administrative grievances, complaints, claims, or appeals filed by employees, but only to the extent that the information is relevant and necessary to the proceedings. Agencies that may obtain information under this routine use include, but are not limited to the Utah Anti-Discrimination Division, Utah Labor Commission, the Equal Employment Opportunity Commission and the Department of Labor.
- 4.1.8 In connection with litigation or settlement discussion regarding claims by or against UTA, including public filings with courts, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required pursuant to the provisions of GRAMA;
- 4.1.9 To a UTA union, as permitted by the collective bargaining agreement and other provisions of state or federal law;
- 4.1.10 To an agency or an instrumentality of any federal, state or local entity with jurisdiction over any UTA property for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to UTA specifying the particular portion desired and the law

enforcement activity for which the Record is sought, and to any federal, state or local law enforcement agency if the head of the agency establishes to UTA that the information is required in the course of an investigation where time is of the essence in preserving and protecting human life and/or public safety.

4.1.11 To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual, but if the information being disclosed contains protected health information, disclosure shall be pursuant to the provisions of HIPAA and GRAMA.

4.1.12 To either house of the Legislature, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Legislature or subcommittee of any such joint committee;

4.1.13 To the Legislative Auditor, or any of his authorized representatives, in the course of the performance of the duties of the Legislative Auditing Office, or to the Federal Transit Administration in the course of its audit activities;

4.1.14 To a court, adjudicative body or other administrative body before which UTA is authorized to appear or which have oversight authority over UTA, when (1) UTA, or any component thereof; or (2) any employee of UTA in his or her official capacity; or (3) any employee of UTA in his or her individual capacity where UTA has agreed to represent the employee; or (4) when UTA is a party to litigation or has an interest in such litigation, or when UTA is subject to an investigation, audit, etc. and the use of such Records by the UTA is deemed by UTA to be relevant and necessary to the litigation, investigation or audit, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose of which the Records were collected; and

4.1.15 To an individual or entity as required under UTA's GRAMA Policy.

4.2 UTA Personnel shall not disclose or permit others to disclose to anyone outside UTA information obtained through their official position or work with UTA and not generally available to the public, except in the performance of their official duties or in connection with judicial proceedings, and in accordance with the provisions of this Policy and other relevant UTA rules and regulations. Any applicable statute, regulation or UTA Policy providing greater privacy protection controls over this Policy. Departments and offices shall require their employees who have

particularized access to sensitive information on either recurring or single time basis, to sign an Information Protection Statement by which they agree to comply with the requirements of this Policy, a sample of which is attached to this Policy. Each Responsible Official shall be responsible for identifying the employees who because of their access to information shall be required to sign a statement annually. The Responsible Official shall file a copy of the signed statement in the employee's personnel file.

## 5.0 Standard Operating Procedures.

### 5.1 Accounting of certain disclosures

5.1.1 For disclosure made under paragraph 4.1, except for disclosures made under paragraph 4.1.1, 4.1.2 and 4.1.9, UTA shall keep an accurate accounting of the disclosure of Records classified as "Private" or "Controlled", including:

- (a) the date, nature, and purpose of each disclosure of a Record; and
- (b) the name and address of the person or agency to whom the disclosure is made.

5.1.2 UTA shall retain the accounting made under paragraph 5.1.1 for at least five (5) years after the disclosure for which the accounting is made or however long the record is ordinarily retained, whichever is longer.

### 5.2 Access to Records.

5.2.1 Upon request by any individual to access his or her Record, UTA shall permit him or her, to review the Record and have a copy made of all or any portion thereof, subject to the fee schedule outlined in UTA's GRAMA Policy.

5.2.2 A request shall be made in writing or by e-mail and be directed to the Records Officer, except for non-medical Personnel Records relating to current employees. In the case of non-medical Personnel Records relating to former and current employees, the request shall be directed to the Senior Human Resources Officer ("SHRO"), the Department of Human Resources ("DHR") or other designee. The Records Officer, or the SHRO or DHR, in the case of Personnel records, shall respond to the request within ten (10) business days after the date the acknowledgement is mailed. If the SHRO, DHR or Records Officer is unable to respond within ten (10) business days,

then the Records Officer or SHRO, DHR, in the case of Personnel Records shall acknowledge receipt of the request within ten (10) business days of receipt and provide a date by which the request shall be fulfilled. If UTA refuses to disclose the Record, it shall inform the individual of the reason for the refusal and the procedure for administrative review. No Record shall be disclosed unless the requestor demonstrates to UTA that he or she is who he or she claims to be. If the requester appears in person, he or she must provide an identifying document containing a photograph issued by a recognized governmental organization. If the request is made in writing, the requester must provide his or her full name, current address, date and place of birth, and must have the request notarized.

### 5.3 Records Containing Medical Information

- 5.3.1 Records containing medical information, such as FMLA forms and ADA forms, shall be kept in a secure location.
- 5.3.2 Records containing medical information are classified as Private Records under GRAMA and will be made available to the subject of the Record as provided for in 5.2.2, with the exception of psychological records.
- 5.3.3 In the case of Records containing psychological information, the decision to release the Record directly to the individual or to withhold direct release shall be made by a medical practitioner designated by the SHRO or DHR. If the decision is that direct release is reasonably likely to endanger the life of physical safety of the individual who is requesting access, release through the individual's chosen medical practitioner will be recommended.
- 5.3.4 UTA does not maintain personal health information subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA), as amended, and its regulations. In the event UTA does maintain HIPAA protected records in the future, the SHRO is designated as the HIPAA Privacy Officer and shall implement procedures to protect such records in compliance with HIPAA.

### 5.4 Administrative Appeals

- 5.4.1 An individual may seek administrative review of a denial of access to his or her Records by filing a written appeal pursuant to the provisions of UTA's GRAMA Policy.



## 5.5 Other Requirements and General Principles

- 5.5.1 UTA shall maintain in its Records only such information about an individual as is relevant and necessary for its business operations.
- 5.5.2 UTA shall make reasonable efforts provide notice to an individual when any Record about an individual is made available to any person under compulsory legal process, provided such process has become a matter of public record. UTA shall establish appropriate administrative, technical, and physical safeguards to insure that security and confidentiality of Records and to protect against any anticipated threats to hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is maintained.
- 5.5.3 An individual's name and address may not be sold or rented by UTA unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.
- 5.5.4 A current copy of this Policy shall be posted on UTA's internet website.

## 5.6 Coordination with Collective Bargaining Agreement

- 5.6.1 In the event that there is a conflict between the provisions of this Policy and the provisions of a collective bargaining agreement, the provisions of the collective bargaining agreement shall govern.

## 6.0 Fees, Judicial Review and Discipline

- 6.1 Fees for copying records that are disclosed shall be assessed in accordance with UTA's GRAMA Policy's duplication rates in effect at the time the records are provided. Unless the duplication fee exceeds \$50.00, no fee will be charged for Records furnished in response to a request from: (1) a current employee of UTA for his or her personnel Records; (2) a domestic governmental agency; or (3) a Court.
- 6.2 Judicial review of this Policy of any decisions made by UTA related to it shall be made in conformity with the provisions outlined in UTA's GRAMA Policy. Nothing in this Policy shall be construed to authorize any civil action for damages.
- 6.3 Any employee who fails to complete an Information Protection Statement, as required by a Responsible Official shall be subject to discipline.



## 7.0 Exemption

- 7.1 Nothing in this Policy shall allow an individual the right to access a Record, amend a Record or obtain an accounting of disclosures for:
  - 7.1.1 Any information compiled in reasonable anticipation of a civil action or proceeding or where disclosure would violate applicable federal or state law;
  - 7.1.2 Investigatory materials compiled solely for the purpose of determining suitability, eligibility or qualifications for employment, personnel matters, or contracts; or
  - 7.1.3 Testing or examination material used solely to determine individual qualifications for appointment or promotion in employment with UTA, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.
- 7.2 Not electronic fare payment information, including financial transaction information, may be released by UTA, unless the request is made (a) pursuant to a court order; (b) pursuant to a request from a law enforcement official pursuant to paragraph 4.1.3 and 4.1.6 herein; by the user for the electronic fare payment information upon proof of identity, in accordance with paragraph 4.2, for release only to that user. Electronic fare payment information will not be released to a third party even with the written consent of the user, except in accordance with this subsection.
- 7.3 Records maintained by the UTA transit police and which consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual ; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, shall be exempt from making an accounting of disclosures under subsection 5.1, from rights of access under subsection 5.2 and judicial review under subsection 6.2.


This Policy applies to all full-time, part-time, temporary employees, interns and members of the UTA Board of Trustees.

III. Cross-References. Board of Trustees Executive Limitations Policy 2.5.2.; UTA GRAMA Policy; UTA Record Retention Schedules.

This UTA Corporate Policy was reviewed by Corporate Staff on February 10, 2015, and approved by the General Manager on this 13<sup>th</sup> day of February, 2015 and takes effect on the latter date.

  
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Michael A. Allegra  
President/CEO/General Manager

Approved as to form:

  
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Counsel for UTA

Revision History	
Privacy Policy, No.	Adopted 4/20/09
Revised	2/10/2015

**Utah Transit Authority  
Information Protection Statement**

The Executive to whom the undersigned reports, has determined that the undersigned has been or may be granted access to sensitive or confidential information. Such information may be in an oral, written, electronic or computer generated format. By signing this document, I acknowledge that I am familiar with the data and information protection policies contained in the following UTA Policies: GRAMA Policy Privacy Policy, etc.

I recognize that in the performance of my duties and responsibilities, I must exercise the highest degree of care to protect, safeguard and preserve the integrity and confidentiality of all materials and information to which I have been granted access. I understand that during my employment or thereafter, I may not divulge, discuss, transmit, copy or otherwise distribute any information or document that I have obtained as a result of my employment with UTA, except in connection with my official duties and in accordance with the relevant Policy and standard operating procedures contained therein. I understand that failure to comply with the confidentiality and non-disclosure requirements as stated herein and as contained in the Privacy Policy will result in disciplinary action, up to and including termination of employment.

I, \_\_\_\_\_, acknowledge that I have read and that I understand this **Information Protection Statement**.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date