



**Governor's Office of Planning & Budget and  
Office of the Legislative Fiscal Analyst**

# **State Records Committee Efficiency Evaluation Report**

*A Report for the Utah Department of Government Operations*

**January 2024**

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# Introduction

The State Records Committee (SRC) was created in 1992 within the Government Records Access and Management Act (GRAMA) to hear appeals of record access denials. The committee is made up of seven volunteer members representing state and local government, the media, the private sector, and the public, and is staffed by the Utah Division of Archives and Records Service (“the division”) within the Department of Government Operations.<sup>1</sup>

The Governor’s Office of Planning and Budget (GOPB) and the Office of the Legislative Fiscal Analyst (LFA) collaborated with the division to understand and review the administration of the SRC process from an appeal being filed to the committee issuing a decision. In FY 2023, the SRC received 153 notices of appeal. Of those, 52 received final decisions. The average length of time from a notice of appeal being received to a decision being issued was 156 days.<sup>2</sup> While there is additional work the division can do to address the number of appeals coming into the SRC process, this evaluation only addresses

the administration of the SRC process. These recommendations will serve the current process as well as future fluctuations in the number of appeals received into the process.

Our team produced three recommendations to improve efficiency, clarity, and effectiveness in managing appeals through the SRC process: the adoption of standardized terms to reduce confusion and improve tracking and historical documentation of appeals, updating case management practices through changes to the existing Google Sheets and Drive usage, and considering more advanced case management platforms. The role of the ombudsman is emphasized to proactively resolve appeal types that are less complex or historically settled without a hearing. Lastly, a reduction of risk by standardized procedures for SRC hearings, such as live streaming, recording, and time limits, are proposed to bring clarity and uniformity.

## Recommendations

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- 1 Formalize the internal processes for managing received appeals through the entire State Records Committee process.
- 2 Use the role of the ombudsman more effectively and strategically.
- 3 Standardize the facilitation of SRC appeals.

# Recommendations

## Recommendation 1

Formalize the internal processes for managing received appeals through the entire State Records Committee process.

*The desired outcome is a formalized process to facilitate more thorough case management by reducing the amount of time staff is spending on incomplete cases and decreasing the amount of risk for error through outdated processes due to an increasing workload.*

## Standardized Terms

The division would benefit from consistently using standard naming conventions and terms throughout its appeal process. Inconsistent names for 1) parties involved in SRC hearings, 2) appeal status, and 3) types of appeals made assessing the process's efficiency difficult. Consistency will facilitate better performance tracking and understanding of the process by participants.

Tracking historical involvement in proceedings before the SRC relies on consistent naming conventions for involved parties. Our reconciliation of petitioner and respondent names found 321 unique petitioners among 376 spellings. This also occurs with respondents with 199 unique respondents among 357 spellings. For example, we found three different spellings for the Lieutenant Governor's Office ("Lieutenant Governor Office," "Lt. Governor," and "Lt. Governor Office") in the SRC data.

Consistent references for parties filing an appeal and those responding would also be helpful. For example, the statute governing appeals to the SRC<sup>3</sup> refers to "appellant" when referencing the party

filing the appeal. However, administrative rule<sup>4</sup> uses different terminology, referring to the appealing party as "petitioner." The SRC's Notice of Appeal form also inconsistently refers to the party filing the appeal as "requester" initially and "petitioner" later in the same document.

The status of an appeal through various parts of the SRC process would also benefit from standardization. "Denied" and "declined" are used interchangeably, as is "withdrawn" and "withdrawn due to mediation."<sup>5</sup>

Finally, statute stipulates that six types of records appeals can be heard by the SRC:

1. Denial of access to records based on restricted classification (Utah Code 63G-2-401(1)).
2. Government's claim that it does not maintain the requested records; an appeal of this nature must be supported by evidence that the entity does or should maintain the requested records (Administrative Rule R35-2-2(2)).
3. Government's failure to respond, which is considered an access denial (Utah Code 63G-2-204(8)).
4. Government's claim of extraordinary circumstances requiring more time to respond or provide records (Utah Code 63G-2-401(1)(b)).
5. Government's denial of a request for a fee waiver (Utah Code 63G-2-203(6)(a)).
6. Government's denial due to a past fee still unpaid (Utah Code 63G-2-203(8)(a)(ii)).<sup>6</sup>

Some of these appeal types are more common than others, like denial of a fee waiver or access to records. Internally standardizing how each new notice of appeal is designated as one of these six appeal types will help SRC and support staff understand the volume of work and strategize how to most efficiently handle each type of request.<sup>7</sup> This level of standardization will also help with triaging appeals. Some types will be more suitable for mediation than others, such as fee waiver appeals, because they are typically less complex. These should then be scheduled for mediation at the same time they are scheduled for a hearing. If resolved, it would then be removed from a future appeals hearing agenda.

With standardized terms for parties, statuses, and appeal types, the division can assess the entire life cycle of an appeal with a visual process map.<sup>8</sup> (See Appendix 1 for a current state map and Appendix 2 for an ideal state map.) We see this process map serving as an anchor both for individuals who are appealing to the SRC and staff. For example, the SRC executive secretary and the Utah State Archives records ombudsman are often working concurrently on appeals. It is unclear how these concurrent efforts are being communicated and coordinated with the SRC chair. An internal process map and consistent terms that designate statuses and outcomes between the two processes are essential to manage and improve the flow of appeals toward resolution.

## Update Case Management Practices

We recommend the division update its case management practices for appeals and accompanying documentation. Currently, appeals are received through email or by physical mail and then an entry for the appeal is created in a master Google Sheets spreadsheet. Supporting documentation is added to a Google Drive with a folder for each appeal. This Google Drive is shared with SRC members for their review of appeal information. While the spreadsheet is helpful in tracking how many appeals are in process, it does not provide a holistic, or historic, record of the progression of an appeal.

The simplest fix is to make changes to the current master spreadsheet. These would include having individual cells documenting a status change instead of the current practice of recording two status changes in a single cell. Another example would be to have clearer tracking of dates of actions. There are instances of multiple dates in one cell as well as incomplete documentation of dates for appeal actions, which makes analysis difficult. The goal would be to look at one appeal record at any given time and know how many days the appeal has been in process, how many days between actions, and where the appeal is at in the process as a whole. This will allow for better tracking of performance of the SRC process. The Google Drive folder method seems to not be an issue at the present, though we recommend there be an overall checklist of what documents need to be in an appeal folder and who needs access to those documents. Documentation of granted access should

also be included in the appeal folder. This location should then be referenced in the master spreadsheet, linking the two current case management practices together. We encourage the division to make a plan to move to a more robust and reliable form of case management, perhaps through creating a database. A statewide resource such as Qualtrics or Salesforce could help facilitate this future state of case management.

The division should also facilitate better case management by clarifying the requirements for submitting a notice of appeal. Right now the website indicates, *“The simplest and best way to prepare an appeal is to use the records request forms located on the Utah State Archives website. However, a simple written letter is acceptable.”*<sup>9</sup> This is potentially creating confusion as 16% of submitted appeals have incomplete documentation.<sup>10</sup> Designating a clear process for submitting an appeal and the required documentation will ease the burden on staff and appellants. Consider, 1) updating the “How to File an Appeal” page of the website to have the Appeals Form<sup>11</sup> (or other appeals vehicle) more clearly visible; and 2) creating an online intake process option. This would allow the agency to employ form logic with a checklist and attachment capabilities for all the required documentation and help prevent an appellant from submitting a notice of appeal that does not include the legally required information and documentation. SRC support staff could also do a preliminary check to ensure submitted appeals are complete and submit an “Incomplete” form email to the appellant if not.

## Recommendation 2

### Use the role of the ombudsman more effectively and strategically.

*The desired outcome is to use the ombudsman more proactively to resolve cases before they reach a hearing and to produce clarity around the relationship and roles of the executive secretary and ombudsman during the process.*

The division has an opportunity to involve the Utah State Archives Records Ombudsman more directly into the SRC process. The ombudsman serves as an expert and resource on GRAMA and other records issues, including training government employees and answering questions about records access. The ombudsman also “serve[s] as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request” and “upon request, attempt[s] to mediate disputes between requesters and responders”.<sup>12</sup> (See Appendix 3 - Ombudsman touchpoints.) The mediation efforts of the ombudsman have proven effective, with 66% of mediated cases resolved in FY 2022.<sup>13</sup>

The division could better leverage the ombudsman’s role of mediator in order to help reduce the number of appeals reaching a hearing. One way to do this is for the SRC executive secretary or SRC chair to request that the ombudsman provide mediation, when appropriate, as allowed by [Utah Code 63A-12-111\(2\)\(c\)](#). Statute allows the ombudsman to mediate disputes “upon request” but does not restrict who can request mediation. The SRC executive secretary will often be able to quickly identify appeals that are historically more likely to be resolved through a mediated conversation between the appellant and the agency for the parties.

The division could also include information about the role and services of the ombudsman in training already provided to state agencies, and encourage agencies to utilize the ombudsman as a mediator and an expert before issues rise to the SRC. Additionally,

the division could provide information about the ombudsman more prominently and proactively when a party files an appeal, including on the division website as well as in communication with the appellant.

Better tracking and documentation of the ombudsman’s mediation efforts could also be helpful. This could include case management information to track when contact between the ombudsman and parties to an appeal occurred, as well as the status of each mediation attempt.

## Recommendation 3

### Standardize the facilitation of SRC appeals.

*The desired outcome is clarity on the role of the SRC and formalized administration of SRC hearings.*

We found that there is a lack of clarity regarding the particulars of the intended role of the SRC. The common understanding among individuals involved with the SRC is that the intent was to provide a less formal path for resolving record access disputes than the court system. However, we were told the SRC has become more quasi-judicial over time, with parties often bringing their attorneys to hearings and the decisions of the SRC having greater impact and coming under increasing scrutiny.<sup>14</sup> The subsequent creation of the Government Records Ombudsman added to the lack of clarity.

The SRC is made up of volunteers who are tasked with interpreting GRAMA, other state statute, federal statute, and court rule.<sup>15</sup> In addition to determining if a record has been appropriately classified according to these disparate sources, these committee members must then weigh the “public interest favoring access” to determine if records, properly designated as private, should be released in service of the public interest.<sup>16</sup> These are significant responsibilities that must be undertaken by the committee without a clear understanding of what role, between the informal ombudsman and the formal court system, the



committee should fill. The division and department leadership have indicated this is something they are looking at with counsel. We encourage these clarifying efforts so that the SRC process can continue to adapt to meet change and demand.

While the division seeks clarification on the role of SRC, we recommend the creation of official procedures for facilitating SRC hearings. This will reduce the risk of an administrative action negatively interfering with a committee action.<sup>17</sup> We recommend addressing the areas in Table 1.

While the Administrative Procedures Act does not apply to the SRC, the SRC has the ability to make rules for itself and abide by the Utah Rules of Civil Procedure.<sup>20</sup> We encourage the SRC to make procedural rules for the governing and conduct expected in meetings by the committee, support staff, and all parties involved

**Table 1: Targeted Area Recommendations**

<b>1) Live streaming and recording of the meeting.</b>
Determine what triggers the live stream to be temporarily stopped and then started again.
Determine what triggers the recording to be stopped and then started again.
Assign a designated staff person for managing the technology aspect of a hybrid SRC hearing. <sup>18</sup>
<b>2) Parties' statements and SRC deliberations.</b>
Stipulate that if a party is not on time for their hearing time, the committee moves onto the next agenda item.
Designate someone to start and stop the timer for the parties' statements to ensure all parties are staying within the time determined by statute. <sup>19</sup> Rule provides up to 15 minutes for the petitioner and respondent to present their cases but can be extended by request to the SRC chair. Additionally, both parties are allowed up to five minutes to present a closing argument and make rebuttal statements.
Consider time limits on both the open and closed door SRC deliberations during a hearing.
<b>3) Maintain meeting order by having a designated SRC representative stay behind in the hearing room when the committee goes into closed door deliberations.</b>

# Methodology

## Data Analysis

For this project, we analyzed the SRC's case management data for fiscal years 2020 through 2024. The data set showed the processing of appeal applications, scheduling of hearings, and disposition of appeal requests. To assess the quality of applications received, the SRC secretary made multiple annotations about application status. Therefore, we assessed how frequently an appeal application was designated as "incomplete," which was either abandoned by the individual filing the appeal, or the appeal was amended for reconsideration.

Additionally, we assessed the processing of appeals by the SRC. We calculated the business days and calendar days that elapsed between when an application was approved by the SRC and major milestones, including when an initial hearing was scheduled, when hearings were held, and when decisions were issued. Since the current way SRC structures its data makes analyzing data difficult, we made Recommendation 1. Many steps were taken to isolate and reconcile date fields associated with the milestones of interest, including referring to SRC decisions to identify when hearings took place.

## Operations

The following operations management principles were used to arrive at recommendations.

### Recommendation 1

Formalize the internal processes for managing received appeals through the entire State Records Committee process.

1. **Standardizing work:** The concept focuses on documented steps of a process so important functions can operate consistently. This is relevant to the standardized use of terms and changes to the case management system, allowing the division to understand where an appeal is in the process as well as being able to capture a snapshot of data at any time.

2. **Triaging and batching:** Both triaging and batching focus on addressing priorities based on balancing demand and resources. Using the work from standardizing, the division can then triage based on appeal type, as well as batch cases that may be sent to the ombudsman.
3. **Full kit:** The concept of "full kit" or "complete kit" refers to knowing everything one needs beforehand before implementation in order to avoid wasted time spent on correcting work based on incomplete documentation or misunderstanding of requirements. This applies to ensuring citizens understand all that is required for submitting an appeal to the SRC, reducing the time needed to correct incomplete applications.
4. **Visualization of workflow:** Visualizing a process creates a source of truth for the ideal state of how a process should flow. It is also a quick way to familiarize employees with a process and identify areas of potential improvement. The division has an older visualization of the GRAMA process. We supplied a current state and future state process map for consideration.

### Recommendation 2

Use the role of the ombudsman more effectively and strategically.

1. **Control work-in-progress (WIP):** The concept refers to managing the total amount of work that is open in the system. Too much WIP decreases quality and extends completion times. It is important to have a backlog strategy to handle times when appeal demand exceeds the SRC's capacity, which is a strategic role the ombudsman plays.
2. **Front loading:** Front loading focuses on planning and allocating resources well upstream to prevent worsening conditions that may be more costly to remediate later. Effective utilization of the ombudsman early in the process can alleviate bottlenecks in the SRC's hearing schedule.



- 3. Synchronization of resources:** Aligning and pacing work based on system priorities. If resources (SRC and ombudsman) are left to pick and choose individual priorities, elapsed time will increase.

### Recommendation 3

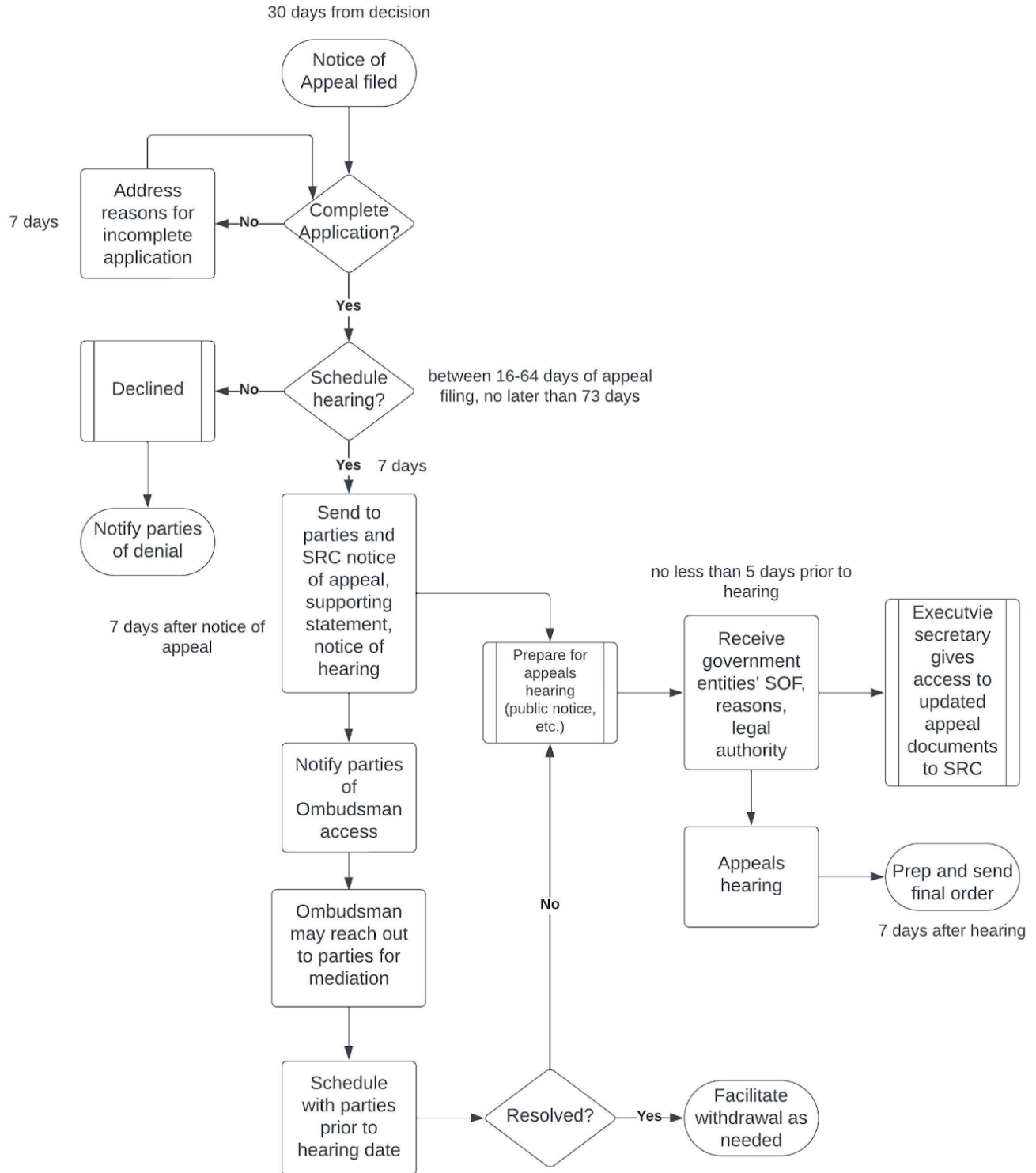
Standardize the facilitation of SRC appeals.

- 1. Standardizing work:** The concept focuses on documented processes and procedures so important functions can operate consistently. This ensures consistent service levels for parties participating in the appeals process.
- 2. Mistaking proofing:** This principle refers to instituting automation or method within a process in order to reduce human-caused error. This applies to the time limits and other specifications for running an SRC hearing. Adhering to those established times, and using tools like the timer, will reduce error that could occur during a hearing.
- 3. Buffer Management:** Planning strategies to identify extra capacity to handle surges in work due to crises, seasonality, or other causes. Such capacity planning will help the SRC given its variability in demand.

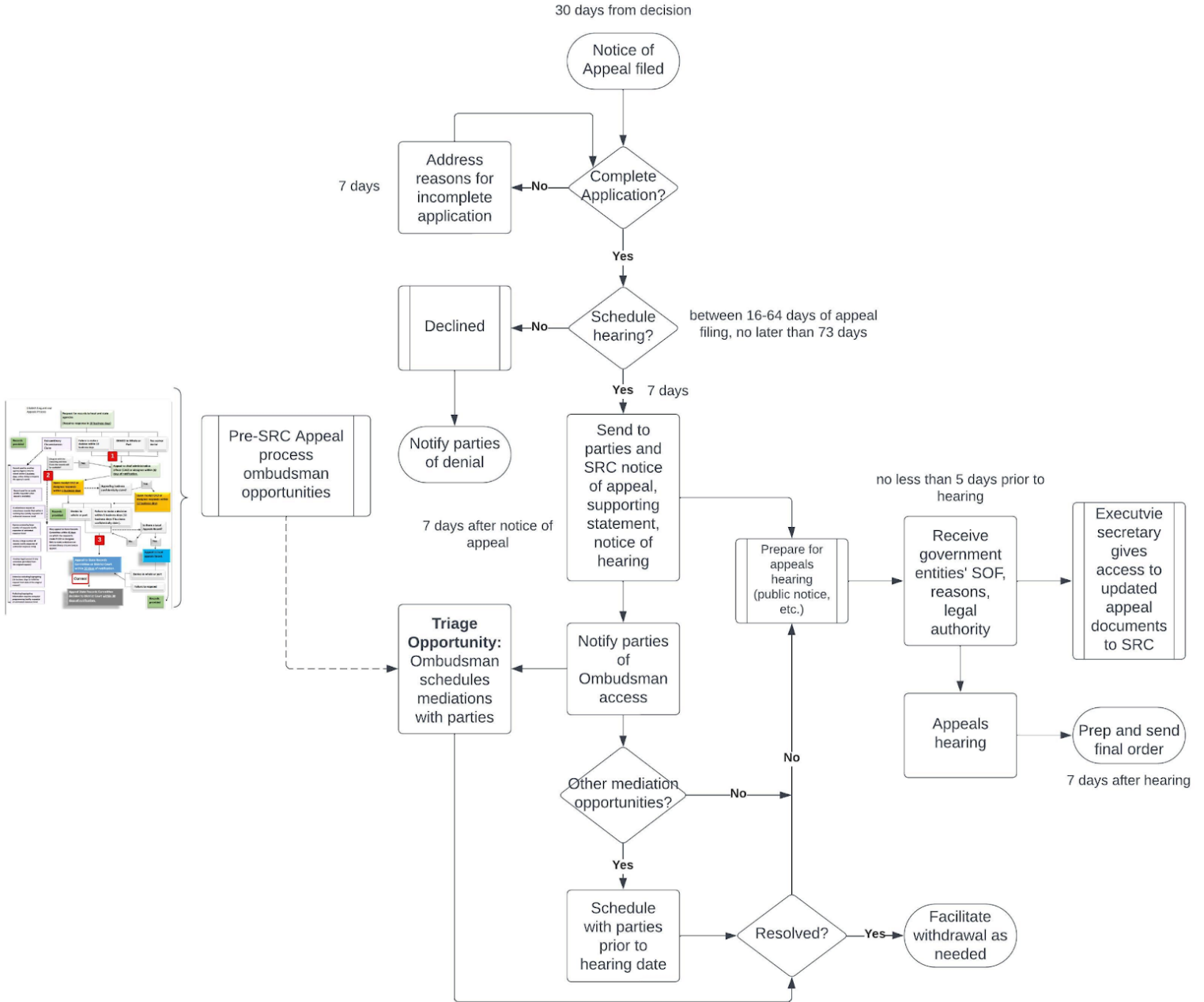
# Endnotes

1. <https://archives.utah.gov/src/about.html>
2. This is based on a median length of 155.5 days for appeals filed with a decision rendered in FY2023; the average is 175 days. These FY 2023 stats are based on our analysis of the division's spreadsheet documenting SRC appeals and review of SRC final decisions.
3. Utah Code 63G-2-403: Appeals to the State Records Committee
4. Administrative Rule R35-1: State Records Committee Hearing Procedures
5. This raises questions about the mediation efforts during the appeals process. We see an opportunity that as the SRC streamlines these terms, it can better track how and when appeals get resolved and reconcile its outcomes with those of the ombudsman.
6. SRC Member Guide
7. In some instances an appeal may be designated as two different appeal types. This should be documented as opposed to combining multiple issues of the appeal into one designation.
8. A visual representation of how the SRC process fits into GRAMA as a whole is recommended. This [process map](#) was found on archives.utah.gov but could use an update.
9. <https://archives.utah.gov/src/how-to-file-appeal.html>
10. Based on our analysis of FY 2023 data.
11. [https://archives.utah.gov/rim/forms/GRAMA-notice-appeal\\_src.pdf](https://archives.utah.gov/rim/forms/GRAMA-notice-appeal_src.pdf)
12. [https://le.utah.gov/xcode/Title63A/Chapter12/63A-12-S111.html?v=C63A-12-S111\\_2019051420190514](https://le.utah.gov/xcode/Title63A/Chapter12/63A-12-S111.html?v=C63A-12-S111_2019051420190514)
13. 41 of 62 SRC appeals that went to mediation. <https://archives.utah.gov/documents/2022-Ombudsman-Report.pdf>
14. To note a recent example, the Committee's decision regarding the designation of college athletes' name, image, and likeness contracts as public records has received national attention.
15. With the aid of counsel from the Attorney General's Office.
16. 63G-2-403(11)(b) Except as provided in Section 63G-2-406, the State Records Committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.
17. For example, we observed some inconsistencies in managing of an SRC hearing, including the recording continuing while the committee was officially sauntering, the Zoom live stream being on during closed deliberations without the knowledge of the parties, and a hot mic picking up a discussion between the SRC Chair and Vice Chair during an official break.
18. It is unclear if this is currently being done by the SRC executive secretary or another staff person. The SRC executive secretary goes into closed deliberations with the SRC. Should the SRC determine this is not needed, the executive secretary could facilitate these practices. Otherwise, another staff person should be designated to ensure proper administration of duties.
19. This was often missed in the November 2023 SRC hearing
20. [Utah Code 63G-2-104](#) declares SRC not governed by the Administrative Procedures Act. [Utah Code 63G-2-502-2\(a\)](#) instructs the SRC to make rules to govern the committee's proceedings.

# Appendix 1: Current State Process Map

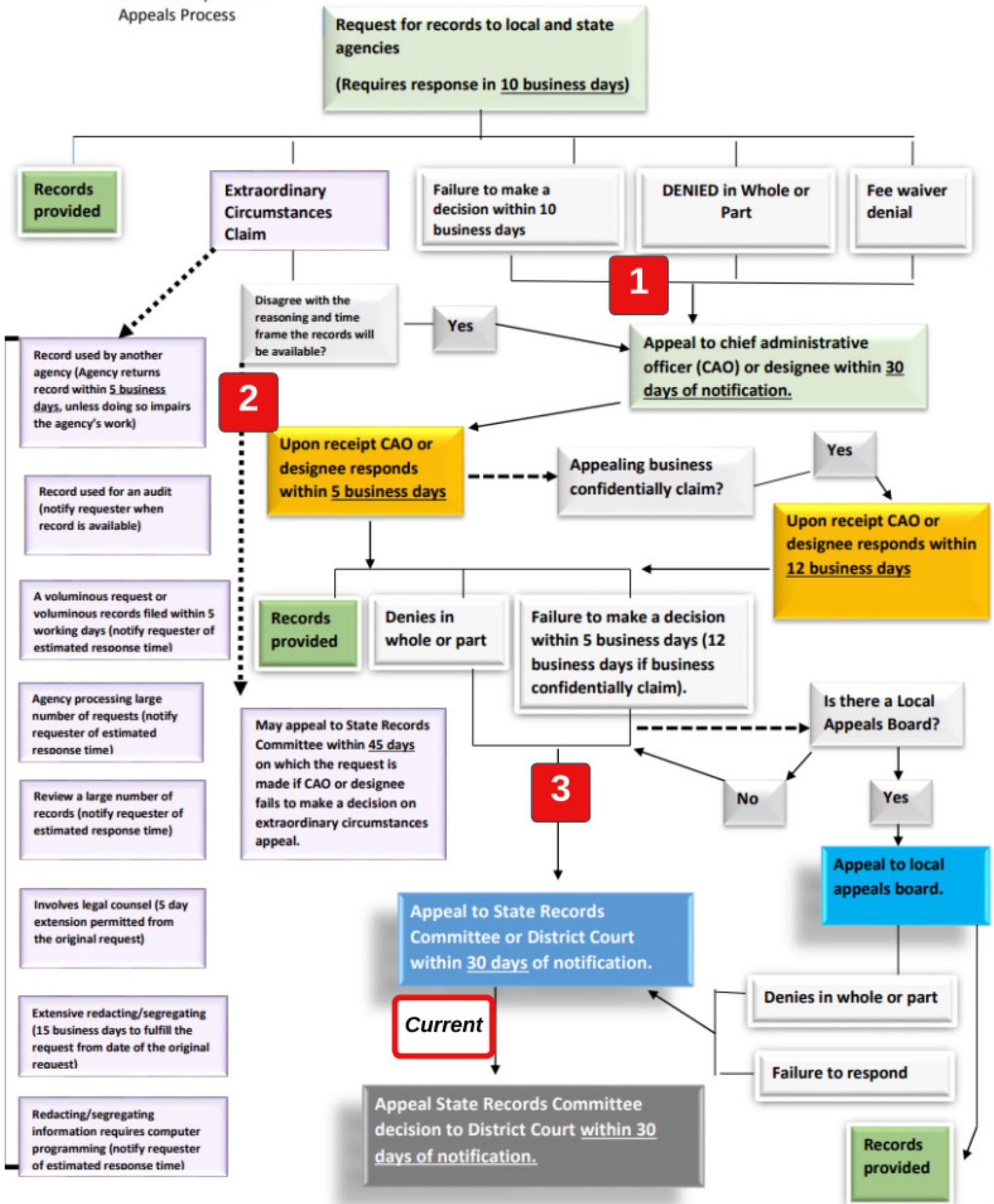


# Appendix 2: Ideal State Process Map





GRAMA Request and Appeals Process





# Agency Response



State of Utah

SPENCER J. COX  
*Governor*

DEIDRE M. HENDERSON  
*Lieutenant Governor*

## Department of Government Operations Division of Archives and Records Service

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January 11, 2024

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Heidi,

Thank you for the opportunity to respond to the recommendations provided by the Efficiency and Process Improvement Committee. We appreciate the opportunity to interact with you and your team to analyze the processes employed by the State Records Committee. Your team's careful review and recommendations have provided valuable insight from a unique perspective that we believe will result in significant improvements. These improvements will benefit the agencies we serve, and we feel strongly that they will also enhance the experience of the citizens who navigate the records appeal process.

We agree with all recommendations in this report and have attached a summary of steps we will take. The Division of Archives and Records Service and Department of Government Operations remain committed to our mandate to provide support to the State Records Committee.

We look forward to implementing the suggestions this project has provided.

Sincerely,

A handwritten signature in black ink that reads "Kenneth R. Williams".

Kenneth R. Williams  
State Archivist and Director  
Utah State Archives and Records Service

**Recommendation 1:** Formalize the internal processes for managing appeals through the entire State Records Committee (SRC) process.

**Division Response:** The Division concurs.

The Division will take the following actions to facilitate the management of appeals and SRC work:

- Standardize SRC terminology.

- Standardize appeals according to one of six types heard by the SRC.

- Adopt and utilize a visual process map for assessing appeals.

- Update case management methodologies and practices including:

  - Creation of a master tracking spreadsheet

  - Creation of a checklist for appeal management and who has access.

  - Explore adoption of a computer system for case management.

**Recommendation 2:** Utilize the Government Records Ombudsman more effectively and strategically.

**Division Response:** The Division concurs.

The Division will take the following actions to optimize the role and effectiveness of the Ombudsman:

- Formalize the process where the SRC Secretary and the SRC Chair can designate appeals likely to be mediated successfully and request mediation services from the Ombudsman.

- Enhance training and resources offered to governmental entities on the role and services offered by the Ombudsman. This will include enhanced resources offered on the Division of State Archives and Records Service website.

- Enhance tracking and documentation to clarify Ombudsman efforts and activities including tracking of where appeals and mediation are at in the records access process.

**Recommendation 3:** Standardize the facilitation of SRC appeals.

**Division Response:** The Division concurs.

The Division will take the following actions to more formalize and clarify the role of the SRC and the administration of appeal hearings.

- Work closely with legal counsel to clarify the roles of the SRC, Ombudsman, SRC Secretary, and the Committee.

- Update existing SRC procedures and draft new procedures if needed including:

Procedures and policy addressing technology (i.e. live streaming, management of official recording of proceedings, and roles and responsibilities for support staff).

Address items that will enhance meeting flow and efficiency such as:

Responsibilities of requesters and responders.

Management of response and testimony time limits.

Establish rules or policies addressing time limits for open and closed deliberations.

Establish procedural rules in accordance with the Rules for Civil Procedure that govern committee member conduct, support staff conduct, and expectations of parties.

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This report was written as part of a joint collaboration between the Utah Governor's Office of Planning & Budget and the Office of the Legislative Fiscal Analyst.



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