
BEFORE THE STATE RECORDS COMMITTEE OF THE

STATE OF UTAH

TRACY TAYLOR,

Petitioner,

v.

WASATCH COUNTY SCHOOL
DISTRICT

Respondent.

DECISION AND ORDER

Case No. 16-43

By this appeal, Petitioner, Tracy Taylor, seeks access to records allegedly held by Respondent, the Wasatch County School District (“District”).

FACTS

On July 18, 2016, Tracy Taylor made a request for records from the District pursuant to the Government Records Access and Management Act (“GRAMA”). Ms. Taylor requested:

All applications filed with the [District] for the superintendent’s position awarded June-July 2016. Identify the top four candidates of those applicants. ALL names of people assigned to the citizen’s committee to review applications for the supervisor’s position. School board’s evaluation process and documents. Identify the process followed for selection- job description of selection committee, who was interviewed, second interview [sic] who visited the school district, etc.

The District denied the request on July 26, 2016, stating that the requester is not authorized to have

access to the documents pursuant to Utah Code § 63G-2-302.

Ms. Taylor filed an appeal of the decision with the District's chief administrative officer, Superintendent Paul Sweat, who delegated the appeal to the District's Human Resource Director, James Judd. In a letter sent on August 3, 2016, Mr. Judd granted the appeal in part, and denied the appeal in part. He provided copies of the documents regarding the School Board's ("Board") evaluation process and referred to the District's website for access to a copy of a recording of the Board's work session held on May 5, 2016.

The District pursuant to Utah Code §§ 63G-2-302(1)(g) and -302(2) denied access to: (1) [a]ll applications filed with the District for the superintendent position..., (2) [a]ll the names of the people assigned to the citizen's committee to review applications for the superintendent's position, and (3) the process of selecting the citizen's committee. Ms. Taylor filed an appeal of this decision with the State Records Committee ("Committee"). On October 13, 2016, a hearing was before the Committee and the parties presented their legal arguments. After considering all arguments by the parties, the Committee now issues the following Decision and Order.

STATEMENT OF REASONS FOR DECISION

1. The Government Records Access and Management Act ("GRAMA") specifies that "all records are public unless otherwise expressly provided by statute." Utah Code §63G-2-201(2). Records that are private, controlled, or protected under Utah Code §§63G-2-302, -303, -304, or 305, are not public records. Utah Code §63G-2-201(3)(a). In enacting

GRAMA, the Utah Legislature recognized the constitutional right of the public to have access to information concerning the conduct of the public's business. Utah Code § 63G-2-102(1)(a).

2. In the present case, Ms. Taylor is seeking access to records concerning the selection of the Superintendent of the Wasatch School District. Ms. Taylor argued that the public has a right to know the process and the applicants considered for such an important community position, and that records detailing the process should be made public. For example, Ms. Taylor stated that the public has a right to know the names and qualifications of applicants for the District's Superintendent position.
3. The Committee having reviewed the written and verbal arguments of the parties is convinced by Ms. Taylor's argument that the public has the right to know the selection process of the Superintendent of the District. Applications for the District's Superintendent position are public to the extent they contain the name and qualifications of the applicants. The disclosure of private information such as an individual's home address, home telephone number, and personal status information such as race, religion, or disabilities, shall be redacted from the applications pursuant to Utah Code §§ 63G-2-302(1)(g) and (2)(a).
4. Any records concerning the citizens' selection committee and/or disclosure of the Superintendent selection process should also be disclosed as a public record. However, pursuant to Utah Code § 63G-2-201(8)(a)(i) the District is not required to create any records

to satisfy the records request.

ORDER

THEREFORE, IT IS ORDERED THAT the appeal of Petitioner, Tracy Taylor, is **GRANTED** in part, and **DENIED** in part.

RIGHT TO APPEAL

A party to a proceeding before the Committee may seek judicial review in District Court of a Committee's Order by filing a petition for review of the Committee Order as provided in Utah Code § 63G-2-404. Utah Code § 63G-2-403(14). A petition for judicial review of a Committee Order "shall be filed no later than 30 days" after the date of the Committee Order. Utah Code § 63G-2-404(1)(a). The petition for judicial review must be a complaint which is governed by the Utah Rules of Civil Procedure, and include the Committee as a necessary party and contain the required information listed in Subsection -404(2). Utah Code § 63G-2-404(1) & (2). The court shall make its decision *de novo*, but shall allow introduction of evidence presented to the Committee, determine all questions of fact and law without a jury, and decide the issue at the earliest practical opportunity. Utah Code § 63G-2-404(6). In order to protect its rights on appeal, a party may wish to seek advice from an attorney.¹

PENALTY NOTICE

Pursuant to Utah Code § 63G-2-403(15)(c), if the Committee orders the governmental entity

to produce a record and no appeal is filed, the government entity herein shall comply with the order of the Committee and shall: (1) Produce the record; and (2) File a notice of compliance with the Committee. If the governmental entity ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the Committee may do either or both of the following: (1) Impose a civil penalty of up to \$500 for each day of continuing noncompliance; or (2) Send written notice of the entity's noncompliance to the Governor for executive branch entities, to the Legislative Management Committee for legislative branch entities, and to the Judicial Council for judicial branch agencies' entities. Utah Code § 63G-2-403(15)(d)(i). In imposing a civil penalty, the Committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional. Utah Code § 63G-2-403(15)(d)(ii).

Entered this 24th day of October 2016.

BY THE STATE RECORDS COMMITTEE

David Fleming, Chair Pro-tem

Patricia Smith-Mansfield

PATRICIA SMITH-MANSFIELD, Chairperson
State Records Committee

¹This notice is required by Utah Code § 63G-2-403(12)(d).

CERTIFICATE OF SERVICE

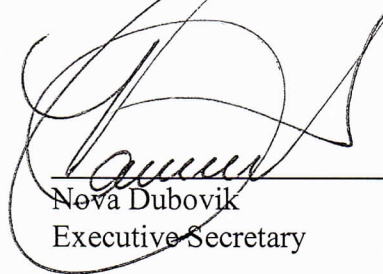
I hereby certify that I mailed a true and correct copy of the foregoing Decision and Order,

U.S. mail postage prepaid, this 24th day of October 2016, to the following:

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Nova Dubovik
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