

<b>DEPARTMENT OF HUMAN SERVICES POLICY AND PROCEDURES</b>		
<b>Reference: 01-05</b>	<b>Effective Date: September 28, 1994 Revision Date: December 27, 2004</b>	<b>Page 1 of 2</b>
<b>SUBJECT: RECORDS AMENDMENT HEARINGS</b>		

This policy applies to all requests received after February 4, 1997. This policy also may apply to any request received prior to February 4, 1997, at the option of the requester.

Office of Administrative Hearings' Responsibility: The Office of Administrative Hearings (OAH) shall act as the "presiding officer" in all hearings held to consider a request to amend a record under Section 63-2-603 of the Government Records Management Act (GRAMA).

The OAH presiding officer shall issue a decision either approving or denying the request to amend as provided in Section 63-46b-3 of the Utah Administrative Procedures Act (UAPA). If the request is approved, the contested information will be corrected in all records containing the same incorrect information, including any computer data bases containing the information. Original records will not be altered. However, a copy of the order issued by OAH shall be attached to the original record and maintained in Department files. Retention and archiving procedures that apply to the original record shall also apply to the order attached to the record.

Appeals of decisions denying a request to amend a record are governed by Sections 63-46b-12 to 63-46b-15 of UAPA and includes reconsideration and/or appeal to district court.

Upon receiving a request to amend a record, the agency receiving the request shall immediately forward it to OAH. OAH shall schedule a hearing with the requesting party and the agency involved to address the request unless the matter which led to the creation of the Department record is being adjudicated in district or juvenile court. In that event, the agency whose record is at issue shall notify OAH and the requester in writing that the facts underlying the Department record are being adjudicated in court and request the case be docketed. OAH will docket the case until the court issues a decision in the matter, at which time the agency shall provide a copy of all relevant court documents to enable OAH to determine whether the requester is entitled to a hearing under Rule R497-100-5 of the Utah Administrative Code. Said hearing will be conducted in accordance with the requirements of the UAPA and agency rules governing informal adjudicative proceedings. Following the hearing, the OAH hearing officer shall prepare the written decision.

Decisions Binding: Decision of OAH shall be binding upon all divisions/offices of the Department

Requester Rights and Responsibilities: Individuals requesting that a record be amended shall comply with the provision of Section 63-2-603(2)(b).

Requesters may be represented in any hearing in the matter by counsel or any other person designated by the requester. If the requester does not desire to participate in a hearing, the requestor may waive the right to a hearing and submit the request to amend to OAH in written form. The agency whose record is at issue shall provide to both OAH and the requester, a copy of the record(s) at issue, any

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documents that support the record and a response to the requester within 20 days of receiving the notice from OAH that a request has been filed. The requester shall then have 10 days to file a final response. OAH shall issue a decision after reviewing the information filed.

*Robin Arnold-Williams*

DATE: 12-27-04

Robin Arnold-Williams, Executive Director  
Department of Human Services