

WAC 162-04-030 Public access to records. (1) Records available.

(a) **General rule and exceptions.** All public records as defined by chapter 42.17 RCW (this includes photographs, tapes, and other materials as well as written documents) prepared, owned, used or retained by the Washington state human rights commission shall be available for public inspection and copying during normal office hours in the office where they are located, except for the following:

(i) Personal information in files maintained for the commission's employees or members to the extent that disclosure would violate their right to privacy.

(ii) The file, except for the complaint, compiled in investigating a complaint filed under RCW 49.60.230, during the time until a finding as provided by RCW 49.60.240 or settlement is adopted by the commission or the case is referred to the attorney general for preparation for public hearing. Specific records in the file may be kept sealed and not made available after this time if the executive director has issued a protective order which states the general nature of the records and the reason why they are not open to inspection, and the records are exempt from public inspection under RCW 42.17.310.

(iii) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the commission or another agency in connection with any agency action.

(iv) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(v) Any other information which is exempt from public inspection under RCW 42.17.310 and where disclosure would violate personal privacy or vital government interest.

(b) **Conditions which override the exceptions.** Even where it comes within one of the above exceptions to public access, a particular record shall nevertheless be available for inspection and copying if:

(i) Its disclosure would not violate personal privacy or impair a vital governmental interest;

(ii) The information which would violate personal privacy or impair a vital governmental interest can be deleted from the record; or

(iii) The record contains statistical information not descriptive of any readily identifiable person or persons.

(2) **Copying.** Persons may copy any record which may be inspected. In offices where a copying machine is kept by the commission, machine copies shall be made available to a person on request. No charge shall be made for up to ten sheets in connection with a single request, but ten cents a sheet shall be charged for each sheet beyond ten. Copying facilities may be denied when making them available would unreasonably disrupt the operation of the office, because of the volume of copying or other valid reasons. The absence or unavailability of agency copying facilities shall be given weight in determining whether there are special circumstances justifying removal of a record from the office as provided in subsection (3) of this section.

(3) **Protection of records.** No record shall be allowed to be removed from a commission office by anyone other than a staff member or other officially authorized person unless special circumstances make the removal necessary or desirable, and protection of the record is reasonably assured. Before such removal is allowed a receipt itemizing the contents of the record and giving the address and telephone number

of the place where it will be kept shall be signed by the person taking the record and approved in writing by the person in charge of the office or division responsible for the record.

(4) **Personnel records.** Requests for inspection of materials in the personnel files of commission employees or members shall be referred to the executive director, or in his or her absence, the deputy director, and promptly acted upon by him or her. When inspection is denied, it shall be the responsibility of the person making that decision to issue within twenty-four hours the written statement required by RCW 42.17.310(4) and 42.17.320 identifying RCW 42.17.310 (1)(b) as the exemption authorizing withholding of the record, and explaining how inspection of the record would violate the employee's or commissioner's right of privacy. The decision of the executive director or deputy director shall be final agency action for purposes of judicial review.

(5) **Other records; review of denial.** Requests for inspection of records not in the personnel files of commission employees or members (that is, not covered by subsection (4) of this section) shall be acted upon immediately by the staff person who has charge of the record at the time the request is made. When that person believes that a request to inspect a record must be denied, he or she shall immediately contact his or her supervisor by telephone and obtain concurrence from the supervisor before denying inspection. The supervisor shall then issue, or cause to be issued, the written statement required by RCW 42.17.310(4) and chapter 42.17 RCW identifying the specific exemption authorizing the withholding of the record (or part) and briefly explaining how the exemption applies to the record withheld. A copy of the statement shall be immediately delivered or mailed to the deputy director.

(6) **Interpretation.** It is the policy of the Washington state human rights commission to carry out the spirit as well as the letter of chapter 42.17 RCW, and thus to afford the public maximum access to its records, subject to necessary respect for the right of individuals to privacy and the need for efficient administration of government. This regulation shall be interpreted in light of that spirit and this policy.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, §162-04-030, filed 11/7/89, effective 12/8/89; Order 13, §162-04-030, filed 2/16/73.]