

Chapter 391-15 WAC
PUBLIC RECORDS REQUESTS—PUBLIC EMPLOYMENT RELATIONS COMMISSION

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WAC

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WAC 391-15-001 Scope—Contents—Other rules. This chapter governs public records requests submitted to the agency and establishes its procedures to provide full access to its public records under the Public Records Act, chapter 42.56 RCW.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-001, filed 11/16/22, effective 1/1/23.]

WAC 391-15-010 Agency records—Public records officer—Contact information. (1) Any person wishing to request access to public records of the agency or seeking assistance in making that request should contact the agency's public records officer:

Public Records Officer
Public Employment Relations Commission
P.O. Box 40919
Olympia, Washington 98504-0919
360-570-7300
info@perc.wa.gov

Information is also available on the agency's website at www.perc.wa.gov.

(2) The public records officer will oversee compliance with the act but another staff member may process the request. Therefore, these rules refer to the public records officer "or designee." The public records officer or designee will provide the "fullest assistance" to requestors, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with essential functions of the agency.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-010, filed 11/16/22, effective 1/1/23.]

WAC 391-15-020 Agency records—Confidentiality. The agency shall preserve the confidentiality of certain records, as follows:

(1) To protect the privacy of individual employees, the agency shall not disclose evidence furnished as a showing of interest in support of a representation petition or motion for intervention.

(2) To respect the confidential nature of mediation, the agency shall not disclose notes and memoranda made by any member of the com-

mission or agency staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-020, filed 11/16/22, effective 1/1/23.]

WAC 391-15-030 Agency offices. (1) The agency maintains its principal office in Olympia, Washington.

(a) The street address of the Olympia office is:

112 Henry Street N.E., Suite 300
Olympia, Washington 98506-4470.

(b) The mailing address of the Olympia office is:

P.O. Box 40919
Olympia, Washington 98504-0919.

(2) The agency maintains a branch office at:

9757 N.E. Juanita Drive, Suite 201
Kirkland, Washington 98034.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-030, filed 11/16/22, effective 1/1/23.]

WAC 391-15-040 Agency records—Availability—Organization—Requests. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the agency's Olympia office.

(2) **Organization of records.** The agency will maintain its records in a reasonably organized manner. The agency will take reasonable actions to protect records from damage and disorganization. A requestor may not take agency records from its offices without the permission of the public records officer or designee. A variety of records are available on the agency website at www.perc.wa.gov. Requestors are encouraged to view the documents available on the website before submitting a records request.

(3) **Making a request for public records.**

(a) Any person wishing to inspect or copy the agency's public records should make the request by email to info@perc.wa.gov, by letter, or by submitting the request in person at the agency's Olympia office addressed to the public records officer and including the following information:

(i) Name of requestor;

(ii) Email address, mailing address, and telephone number of the requestor;

(iii) Identification of the public records adequate for the public records officer or designee to locate the records; and

(iv) The date and time of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, the requestor should so indicate

and make arrangements to pay for copies of the records or make a deposit.

(c) The public records officer or designee may accept oral requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts an oral request, the records officer will confirm receipt of the information and the substance of the request in writing.

(d) If requestors refuse to identify themselves or provide sufficient contact information, the agency will respond to the extent feasible and consistent with the law.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-040, filed 11/16/22, effective 1/1/23.]

WAC 391-15-050 Processing of public records requests. (1) Providing "fullest assistance." The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(a) Upon receipt of a request, the agency will assign it a tracking number and enter it into a log.

(b) The public records officer or designee will evaluate the request according to the nature of the request, the volume of requested records, and the availability of the requested records.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying by:

(i) If copies are available on the agency's website, providing a link to the website where the requested records are located;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, sending the copies to the requestor;

(b) Provide a reasonable estimate of when records will be available (the public records officer or designee may revise the estimate of when records will be available);

(c) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor.

(i) Clarification may be requested and provided by telephone and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the agency need not respond to it. The agency will respond to those portions of a request that are clear.

(d) Deny the request.

(3) **Protecting rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, before providing the records, give notice to any persons whose rights may be affected by the disclosure. That notice should be given so as to make it possible for those other persons to contact the requestor and ask the requestor to revise the request or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(4) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the agency believes that a record

is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record were redacted.

(5) **Inspection of records.**

(a) Consistent with other demands, the agency shall promptly provide space to inspect public records. A member of the public may not remove a document from the viewing area without permission or disassemble or alter any document. The requestor may indicate which documents the requestor would like the agency to copy.

(b) The requestor must claim or review the assembled records within 30 days of the agency's notification that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and ask the requestor to contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the agency may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(7) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if the public records officer or designee reasonably determine that it would be practical to provide the records in that manner. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the agency has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the agency has closed the request.

(10) **Later-discovered documents.** If, after the agency has informed the requestor that it has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-050, filed 11/16/22, effective 1/1/23.]

WAC 391-15-060 Processing of public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests electronic records in an electronic format, the public records officer will provide the nonexempt records or portions of those records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(3) **Customized electronic access services.** With the consent of the requestor, the agency may provide customized access services and assess charges under RCW 42.56.120 (2) (f). A customized service charge applies only if the agency estimates that the request would require the use of information technology expertise to prepare data compilations or provide customized electronic access services when such compilations and customized access services are not used by the agency for other purposes. The agency may charge a fee consistent with RCW 42.56.120 (2) (f) for such customized access.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-060, filed 11/16/22, effective 1/1/23.]

WAC 391-15-070 Exemptions to public records. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure.

(2) The agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-070, filed 11/16/22, effective 1/1/23.]

WAC 391-15-080 Costs of providing copies of public records. (1) **Inspection.** There is no fee for inspecting public records, including records on the agency website at www.perc.wa.gov.

(2) **Costs.** A requestor may obtain standard copies for 15 cents per page.

(3) **Processing payments.** Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to 10 percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The agency will not charge sales tax when it makes copies of public records.

(4) **Electronic records.** There is no charge for emailing electronic records to a requestor, unless another cost applies.

(5) **Costs of mailing.** The agency may also charge actual costs of mailing, including the cost of the shipping container.

(6) Payment may be made by cash, check, or money order to the "Public Employment Relations Commission."

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-080, filed 11/16/22, effective 1/1/23.]

WAC 391-15-090 Review of denial of public records. (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the executive director who will immediately consider the petition and either affirm or reverse the denial within two business days, or a mutually agreed time, following the agency's receipt of the petition.

(3) **Review by the attorney general's office.** Under RCW 42.56.530, if the agency denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter under WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests at the conclusion of two business days after the initial denial of the request regardless of any internal administrative appeal.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-15-090, filed 11/16/22, effective 1/1/23.]