

# Chapter 292-130 WAC

## AGENCY ORGANIZATION—PUBLIC RECORDS

### WAC

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**WAC 292-130-010 Purpose.** The purpose of this chapter is to provide rules implementing RCW 34.05.220 and 42.17.250 through 42.17.320 for the executive ethics board.

[Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-010, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-020 Function—Organization—Office.** The executive ethics board was created by chapter 42.52 RCW to enforce the state's ethics law and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

The executive ethics board consists of five members, appointed by the governor as follows: One member shall be a classified service employee; one member shall be a state officer or state employee in an exempt position; one member shall be a citizen selected from a list of three names submitted by the attorney general; one member shall be a citizen selected from a list of three names submitted by the state auditor; and, one member shall be a citizen at large selected by the governor.

The board's administrative office is located at 2425 Bristol Court S.W. 1st Floor, P.O. Box 40149, Olympia, WA 98504-0149. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays and during regularly scheduled board meetings.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-020, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-020, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-030 Operations and procedures.** The board holds regular scheduled meetings on the second Friday of each month at 9:00 a.m. unless a different time is noted on the agenda, except August and December when no meetings are held. The meetings are held at 2425 Bristol Court, Conference Room 148, unless circumstances require relocating to another site as designated by the executive director of the board.

All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). Three members

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of the board constitute a quorum. Any matter coming before the board may be decided by a majority vote of those members present and voting. Minutes shall be taken at all meetings.

The board issues advisory opinions; develops education and training materials; investigates, hears, and determines complaints; reviews and approves agency ethics policies; and, reviews, approves, or denies contracts between state officers and employees and state agencies.

Written communications intended for board consideration or action shall be filed with the administrative office.

[Statutory Authority: RCW 42.52.360 (2)(b), 05-19-142, § 292-130-030, filed 9/21/05, effective 10/22/05. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-030, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-030, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-040 Executive director.** The executive director shall perform the following duties under the general authority and supervision of the board:

(1) Make initial determinations, pursuant to RCW 42.52.425 and WAC 292-100-045, regarding complaints received by the board;

(2) Render informal nonbinding advice, pursuant to RCW 42.52.360 (2)(b) and (c) and WAC 292-110-050;

(3) Make initial determinations, pursuant to RCW 42.52.120 and WAC 292-110-060, regarding approval of certain contracts between state agencies and state officers or employees;

(4) Act as records officer and administrative arm of the board;

(5) Coordinate the policies of the board and the activities of board staff, supervise board staff as appropriate;

(6) Act as a liaison between the board and other public agencies; and

(7) Conduct ethics training and information outreach.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-040, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-040, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-050 Public records—Availability.** Public records are available for inspection and copying except as otherwise provided by RCW 42.17.310 and chapter 292-100 WAC.

[Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-050, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-060 Index prior to January 1, 2001.** Prior to January 1, 2001, the board indexed by subject matter the advisory opinions of the board. The index is maintained in the administrative office and is accessible at the board's web site located at [www.wa.gov/ethics](http://www.wa.gov/ethics).

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The volume of correspondence managed by the office is such that it would be unduly burdensome to formulate and maintain an index of all correspondence. In lieu of an index, the following filing system is utilized at the board's administrative office:

- (1) Complaints received by the board are indexed by year, number, and name of the respondent and agency.
- (2) Whistleblower referrals from the state auditor are indexed by whistleblower case number.
- (3) Contract approvals are filed by year and name of the state employee.
- (4) Agency ethics policies are filed by agency name.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-060, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). 98-22-072, § 292-130-060, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-065 Index after January 1, 2001.** The board has indexed by subject matter the advisory opinions of the board. The index is maintained in the administrative office and is accessible at the board's web site located at [www.wa.gov/ethics](http://www.wa.gov/ethics).

The volume of correspondence managed by the office is such that it would be unduly burdensome to formulate and maintain an index of all correspondence. In lieu of an index, the following filing system is utilized at the board's administrative office:

(1) Complaints, including referrals from the state auditor, received by the board are indexed by year, month, day, and sequential number. Complaints that are referred for full investigation are indexed by year and sequential case number.

(2) Requests for advisory opinions, including informal staff analysis, are indexed by year, month, day, and sequential number. Advisory opinions issued by the board are indexed by year and sequential opinion number.

(3) Requests for contract approvals, under WAC 292-110-060 are indexed by year, month, day, sequential number and name of the state employee.

(4) Requests for board review of agency ethics policies, filed under RCW 42.52.360(4) are indexed by year, month, day, and sequential number. Agency ethics policies that are approved by the board are indexed by year, month, day, sequential policy number, and agency name.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-065, filed 6/13/01, effective 7/14/01.]

**WAC 292-130-070 Public records—Officer.** The public records officer for the board shall be the executive director to the board.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-070, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). 98-22-072, § 292-130-070, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-080 Hours for seeking public records.** Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and during regularly scheduled board meetings.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-080, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). 98-22-072, § 292-130-080, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-090 Requests for public records.** Chapter 42.17 RCW requires that agencies protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency; therefore, public records may be inspected or copied or copies of such records obtained, upon compliance with the following procedure:

(1) A request shall be made in writing either via electronic mail or in writing upon a form prescribed by the administrative office. The form shall be presented to the public records officer, or to a member of the staff designated by him or her if the public records officer is not available, during office hours. The request shall include:

- (a) The name of the person requesting the record;
- (b) The calendar date on which the request was made;
- (c) A description of the record or records requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or designated staff member to whom the request is made to assist in appropriately identifying the public record or public records requested.

[Statutory Authority: RCW 42.52.360 (2)(b). 98-22-072, § 292-130-090, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-100 Response to public records requests.** (1) The administrative office shall respond promptly to requests for disclosure. Within five business days of receiving a public records request, the office will respond by:

- (a) Providing the record;
- (b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or
- (c) Denying the public records request.

(2) Additional time for the office to respond to a request may be based upon the need to:

- (a) Clarify the scope of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons who may be named in a record;

or

(d) Determine whether any or all of the information requested is exempt and that a denial should be made as to all or part of the request.

[Statutory Authority: RCW 42.52.360 (2)(b). 98-22-072, § 292-130-100, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-110 Copying fees.** No fees shall be charged for the inspection of public records. The office will charge one dollar for the first ten pages and ten cents per copy for additional pages for requests made under this chapter. The public records officer may waive the fees for copies when the expense of processing the payment exceeds the cost of providing the copies. These charges are necessary to reimburse the office for the costs of providing copies of public records and use of the copying equipment. The office may

require that all charges be paid in advance of release of the copies.

[Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-110, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-120 Protection of public records.** (1)

No person shall knowingly alter, deface, or destroy public records of the office.

(2) Original copies or portions thereof of public records of the office shall not be removed from the premises.

(3) Care and safekeeping of public records of the office, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same sequence or organization as when furnished.

[Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-120, filed 11/3/98, effective 12/4/98.]

**WAC 292-130-130 Exemptions.** (1) The board

reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 292-130-060 is exempt under the provisions of RCW 42.17.310.

(2) It is the policy of the board during the course of any investigation that all records generated or collected as a result of that investigation are exempt from public inspection and copying under RCW 42.17.310 (1)(d). The investigation is not considered complete until a case is resolved either by a stipulation and settlement that is signed by all parties; or, when the board enters a final order after a public hearing. If a public records request is made following a signed stipulation and settlement or a final order for any such record which implicates the privacy of an individual, written notice of the records request will be provided to the individual in order that such individual may request a protective order from a court under RCW 42.17.330. The following records are not considered part of the investigation file and are releasable upon request:

- (a) Complaints, upon receipt by the respondent;
- (b) The board staff's preliminary review or investigation report;
- (c) The board's findings of reasonable cause or no reasonable cause; and
- (d) Proposed stipulations and settlements, upon receipt by the board.

(3) In addition, pursuant to RCW 42.17.310, the board reserves the right to withhold or delete information when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be otherwise exempt from disclosure under chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(4) Any denial of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-033, § 292-130-130, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-130, filed 11/3/98, effective 12/4/98.]

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**WAC 292-130-140 Review of denials of public records request.** (1) Any person who objects to a denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chair of the board. The chair shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial.

[Statutory Authority: RCW 42.52.360 (2)(b), 98-22-072, § 292-130-140, filed 11/3/98, effective 12/4/98.]