

# Chapter 174-276 WAC

## ACCESS TO PUBLIC RECORDS

### WAC

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**WAC 174-276-005 Purpose.** The purpose of this chapter is to provide rules for The Evergreen State College implementation of the provisions of chapter 42.17 RCW relating to public records.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-005, filed 6/13/97, effective 7/14/97.]

**WAC 174-276-010 Definition of public record.** (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The Evergreen State College, regardless of the physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-010, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-010, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-020 General course and method of decision making.** (1) The formal procedures for decision making at the college are governed by the board of trustees through rules promulgated by it in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act (APA). Accordingly, all rules, orders or directives, or regulations of the college which affect the relationship of particular segments of the college, such as students, faculty, or other employees, with the college or with each other, (a) the violation of which subjects the person to a penalty or administrative sanction; or

(b) Which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings; or

(c) Which establishes, alters or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law;

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Are implemented through the procedures of the APA and appear in Title 174 WAC. However, in accordance with RCW 34.05.010(15), the college reserves the right to promulgate as internal rules not created or implemented in accordance with the APA, the following: Rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admissions; academic advancement, academic credits, graduation and the granting of degrees; tuition and fees, scholarships, financial aids, and similar academic matters; employment relationships, fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under APA unless otherwise required by law. Internal rules and regulations are set forth in the colleges published catalogs, the Policies and Procedures Manual, and the Faculty Handbook.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-020, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-030 Informal procedures regarding the general course and methods of decision.** Informal procedures regarding the methods and general course of operations at the college are, for the purposes of these rules, either:

(1) Decisions made by persons authorized by board resolution, the president, or any designee to make a decision within the scope of responsibility assigned to such person; or

(2) Methods of human persuasion utilized by any member of the college's constituencies or of the public to attempt to influence one in power to make decisions within that person's scope of responsibility.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-030, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-040 Designation of public records officers.** The public records officer for the college shall be the executive associate to the president or the president's designee within the office of the president. The public records officer shall be responsible for insuring full public access to public records in accordance with chapter 42.17 RCW. The public records officer shall enforce the rules and regulations related to release of public records and coordinate such with the faculty, staff, and students of the college.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-040, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-040, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-050 Availability for public inspection and copying of public records.** Public records shall be available for inspection and copying during the customary office hours of the college. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holi-

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days, unless the person making the request and the college, acting through the public records officer, agree on a different time.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-050, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-050, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-060 Requests for public records.** In accordance with the requirements of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or the president's designee. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) If the matter requested is referenced within the current index maintained by the college records officer, a reference to the requested record as it is described in such index.
- (d) If the requested matter is not identifiable by reference to the college records current index, a statement that succinctly describes the record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the college person to whom the request is being made to assist the member of the public in succinctly identifying the public record requested.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-060, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-060, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-070 Charges for copying.** (1) No fee shall be charged for inspection of public records. The college may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the college for its actual costs incident to such copying.

(2) No person shall be released a record which has been copied by photostatic process until and unless the person requesting the copied public record has tendered payment for such copying to the records official from whom the public record was obtained, or to any person designated by such records official.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-070, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-080 Determination regarding exempt records.** (1) The college reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the college, president of

the college, or an assistant attorney general assigned to the college.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within five business days as to whether her or his request for a public record will be honored.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his or her designee, specifying the specific reasons therefor. The following nonexhaustive lists are examples of records exempted from public inspection and copying:

(a) Personal information in any files maintained for students in public schools; patients or clients of public institutions or public health agencies; welfare recipients; prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointed or elected officials, or any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax, if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

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

(j) Records which are relevant to a controversy to which an agency 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.

(k) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of information would:

(i) Be prohibited to such persons by RCW 82.32.330; or  
 (ii) Violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(l) Records, maps, or other information identifying the location of archeological sites in order to avoid the looting or deprecation of such sites.

(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(n) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant.

(o) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers. RCW 51.36.120.

(p) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(q) Information that identifies a person who, while an agency employee:

(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and

(ii) Requests his or her identity or any identifying information not be disclosed.

(r) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(s) Business related information protected from public inspection and copying under RCW 15.86.110.

(4) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(5) Prior to releasing personal information regarding an identifiable person or persons, the college must notify the affected person or persons in writing and provide them with a two-week opportunity to seek an injunction through Thurston County superior court preventing the release of the document or documents in question. The affected person or persons may waive the two-week notice requirement under this section by contacting the public records officer in writing of said waiver.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-080, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-080, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-090 Review of denials for public records requests.** (1) Any person who objects to the denial of a request for a public record shall petition for prompt review of such decision by tendering a written request for a

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review of such denial. Such written request by a person demanding prompt review shall specifically reference the written statement by the college denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the college or any of her or his designees, which for the purposes of this section may include the public records officer, shall consider such petition.

(3) During the course of the two business days in which the president or her or his designee reviews the decision of the public records officer denying the request for a public record, the president or designee may conduct an informal hearing. During the course of such informal hearing, the president or designee may require that the person requesting the public record appear in person at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record she or he is seeking. Failure by the person requesting the review hearing to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two business days. If the petitioner requesting review does appear at such informal hearing, then the period for review by the college shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or designee.

(4) During the course of the informal hearing conducted by the president or his or her designee under this section, the hearing officer shall consider the obligations of the college fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.250 insofar as it requires the college to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

(5) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-090, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-090, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-095 Requests for review.** As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter."

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-095, filed 6/13/97, effective 7/14/97.]

**WAC 174-276-100 Form—Request for public records.**

REQUEST FOR PUBLIC RECORDS

The Evergreen State College

<b>Section I</b> - IDENTIFICATION. The information requested in Boxes 1 through 4 is not mandatory. If provided, it will allow the Records Officer to contact you, if necessary, in connection with your request.		DATE
1. Name of Requester	2. Representing (if applicable)	
3. Street Address		
4. City-State-Zip Code	If there is any particular urgency attached to this request, please indicate the date by which you need the information.	

**Section II** - NATURE OF REQUEST. Please be specific about the records you wish to see. If you do not know the name of the records, make your request in the form of a question. To comply with RCW 42.17.260(5) (noncommercial use), please sign the certification below.

I certify that the information obtained as a result of this request for public records will not be used in whole or in part to compile a list for commercial purposes.

.....  
Requester's Signature

DO NOT FILL IN BELOW THIS LINE

**Section III** - REQUEST FOR REVIEW

Requested by	Office	Telephone

**Section IV** - DISPOSITION OF REQUEST

1.	2.	3.	4.	
5.	6.	7.	8.	9.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-100, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-110 Form—Public records request for copies.**

PUBLIC RECORDS REQUEST FOR COPIES

The Evergreen State College

Please indicate the records that you wish to have copied, and number of copies of each. When completed, give this request to a staff member who will accompany you to the cashier and then to the nearest copy center. You will be required to pay for the copies before receiving them.

DESCRIPTION OF MATERIALS TO BE COPIED:

.....

Requester's Signature

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-110, filed 1/26/90, effective 2/26/90.]

**WAC 174-276-120 Form—Request for review—Public records request.**

REQUEST FOR REVIEW PUBLIC RECORDS REQUEST

The Evergreen State College

A review of the attached request for public records has been requested by the person named below. Note your opinion below and then have your secretary notify the PRO so that the forms may be picked up by our office. Your opinion, as stated, will not be disclosed to the public.

Review Requested By	Office	Telephone

Reason for Request of Review

.....

Opinion

.....

Review Made By

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-120, filed 1/26/90, effective 2/26/90.]