

# Chapter 381-20 WAC

## PUBLIC RECORDS—DISCLOSURE

### WAC

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**WAC 381-20-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the indeterminate sentence review board with the provisions of the Public Disclosure Act, RCW 42.17.250, in conjunction with the Criminal Records Privacy Act, chapter 10.97 RCW, as well as RCW 9.95.140.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-010, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-020 Definitions.** (1) "Public records" include 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 board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photocopies, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or 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.

(3) "Board" means the indeterminate sentence review board.

(4) "Client" means any person or organization about whom the board has a record.

(5) "Disclosure" means inspection or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-020, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-030 Public records available.** Requests for any identifiable public record may be initiated at the central records office of the board during normal business hours.

The board shall, at all times, take the most timely possible action on requests for disclosure and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The board's failure to respond shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 381-20-100.

(9/15/98)

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-030, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-040 Public records officer.** The chair shall designate a staff member as the public records officer who shall be responsible for implementing the board's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-040, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-050 Requests for public records.** (1) All requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request should include:

(a) The name of the person requesting the record.

(b) The calendar date the request was made.

(c) The nature of the request.

(2) A request for disclosure shall be made during the customary business hours or by mail. Persons who appear at the board's office for the purpose of inspection and copying of the board files are requested to make an appointment at least ten working days in advance in order to allow sufficient time for the removal and deletion of exempted record information.

(3) This chapter shall not be construed as giving authority to any agency to give, sell, or provide access to lists of individuals for any purpose, and the board shall not do so unless specifically authorized or directed by law.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 381-20-010, the board must provide the person requesting disclosure with a written explanation for the non-disclosure, pursuant to WAC 381-20-090.

(5) Any person continuing to seek disclosure, after having received a written explanation for the nondisclosure, pursuant to WAC 381-20-090, may request a review under the provisions of WAC 381-20-100.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(7) Nothing in this chapter, shall be construed to require the board to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the board and is not required for litigation by rules of pretrial discovery.

(8) If public records or information contained in a board file are in the field for purposes of a hearing, and are thus not available, board staff shall promptly inform the person requesting disclosure that there will be a delay in responding to the disclosure request due to the unavailability of the public record.

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(9) All requests from the press or media shall be referred to the chair or designee for response.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 98-19-054, § 381-20-050, filed 9/15/98, effective 10/16/98; WSR 91-14-028, § 381-20-050, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-060 Disclosure to client's representative.** (1) If a client requests disclosure to a representative, this request must be accompanied by a written release signed by the client, except that as an accommodation to the client, and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must also include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made.

(b) An identification of the record, or portion thereof, to be disclosed.

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-060, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-070 Fees—Inspection and copying.** No fee shall be charged for the inspection of public records.

The board shall collect fees, plus postage, to reimburse itself for actual costs incident to providing copies of public records.

Nothing contained in this section shall preclude the board from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies whenever doing so is in the best interest of the board.

Prepayment of copying costs and postage shall be a prerequisite to copying and mailing of public records.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-070, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-080 Protection of public records.** Public records shall be disclosed only in the presence of a public disclosure coordinator or his or her designee who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the board. The section shall not be construed to prevent the board from accommodating a client by use of the mails in the disclosure process.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-080, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-090 Disclosure procedure.** Board staff shall review file material prior to disclosure.

If the file does not contain materials exempt from disclosure, board staff shall ensure full disclosure.

If the file does contain materials exempt from disclosure, board staff shall exempt those portions of the file and shall, at

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the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption applies. The remaining nonexempt materials shall be fully disclosed pursuant to this chapter.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 98-19-054, § 381-20-090, filed 9/15/98, effective 10/16/98; WSR 91-14-028, § 381-20-090, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-100 Remedy for review of denial of disclosure.** (1) If the person requesting disclosure disagrees with the decision of board staff denying disclosure of a public record, this person may, at any time, petition the board's executive officer for review of the decision denying disclosure. The form used by board staff to deny disclosure of a public record shall clearly indicate this right of review.

(2) The executive officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the board of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 98-19-054, § 381-20-100, filed 9/15/98, effective 10/16/98; WSR 91-14-028, § 381-20-100, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-110 Exemptions to public records disclosure.** The board reserves the right to determine if a public record requested in accordance with the procedures outlined herein is exempt or nondisclosable under RCW 42.17.250 through 42.17.340. Nondisclosable records include but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by RCW 42.17.310 (1)(a); however, disclosure may be made to that person or that person's representative, except as otherwise provided by these rules.

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement, or penology agencies, the state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or the protection of any person's right to privacy. This data is nondisclosable to the extent required by RCW 42.17.310 (1)(d) and (e), 10.97.080, chapter 446-20 WAC.

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW.

(4) Personal information in files maintained for an employee of the board to the extent required by RCW 42.17-310 (1)(b).

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the board in connection with any action to the extent required by RCW 42.17.310 (1)(i).

(9/15/98)

(6) Records which are relevant to a controversy to which the board is a party but which records would not be available to another party to the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the board and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Nonconviction data, as defined in RCW 10.97.030 (2), may be disclosed to the subject of the record in person in the central office of the board but may not be copied except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. Incarcerated subjects shall be provided with a designation of documents in the board file which contain nonconviction data concerning the subject, per RCW 10.97.-080.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-110, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-120 Qualifications on nondisclosure.**

To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-120, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-130 Interagency disclosure.** (1) Unless prohibited by law, information may be disclosed by the board to outside agencies, including other state of Washington agencies, or agencies of other states.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the board.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-130, filed 6/26/91, effective 7/27/91.]

**WAC 381-20-140 Records index.** The board finds it would be unduly burdensome and interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.

The board will make available for public disclosure all indices which may, at a future time, be developed for agency use.

[Statutory Authority: RCW 34.05.220 (1)(b) and 42.17.250. WSR 91-14-028, § 381-20-140, filed 6/26/91, effective 7/27/91.]