

Chapter 504-45 WAC

PUBLIC RECORDS

WAC

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WAC 504-45-010 Authority and purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to 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 agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures Washington State University is to follow in order to provide full access to public records. Washington State University is hereinafter referred to as the "university." Where appropriate, the term university also refers to the staff and employees of Washington State University. These rules provide information to persons wishing to request access to public records of the university and establish processes for both requestors and university staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules are interpreted in favor of disclosure. In carrying out its responsibilities under the act, the university is guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-010, filed 11/20/17, effective 12/21/17; WSR 07-04-027, § 504-45-010, filed 1/29/07, effective 3/1/07.]

WAC 504-45-020 Agency description—Contact information—Public records officer. (1) Washington State University is an institution of higher education, authority for which is located in chapter 28B.30 RCW. The administrative offices of the university are located at the university's main campus at Pullman, Washington. Other campuses are located at Spokane, Tri-Cities, Vancouver, and Everett, Washington. Agricultural research centers are located at Mt. Vernon, Prosser, Puyallup, Vancouver, and Wenatchee, Washington. Cooperative extension offices are maintained at the county

seats of all counties in the state. The university also has operations offices at Seattle and Olympia, Washington.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request, should contact the university's public records office located at the Pullman administrative offices. Current contact information and additional information regarding release of public records are available on the university's web site at <https://wsu.edu>.

(3) The public records officer oversees compliance with the act, but another university staff member may process the request. Therefore, these rules refer to the public records officer or "designee." The public records officer or designee and the university 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 university.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-020, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-020, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-020, filed 1/29/07, effective 3/1/07.]

WAC 504-45-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the university. For the purposes of this chapter, the normal business hours for the public records office are from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding the university's holidays and scheduled and emergency closure periods. Records must be inspected at the offices of the university.

(2) Index of records. An index of final orders, declaratory orders, interpretive statements, and policy statements entered after June 30, 1990, is available at the office of the university's rules coordinator at the Pullman campus. The university posts links to many of these records on its web site at <https://wsu.edu>.

(3) Organization of records. The university maintains its records in a reasonably organized manner. The university takes reasonable actions to protect records from damage and disorganization. A requestor must not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university's web site at <https://wsu.edu>. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university should make the request in writing on the university's request form, or by letter, fax, or email addressed to the public records officer or designee. The following information must be included in the request:

(i) Name of the person requesting records;

- (ii) Mailing address of requestor;
- (iii) Other contact information, including telephone number and any email address;
- (iv) Identification of the public records adequate for the public records officer or designee to locate the records; and
- (v) The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies or electronically produced copies are provided at the rates established in WAC 504-45-070. A requestor may also refer to the university's web site at <https://wsu.edu> for current rates.

(c) A form is available for use by requestors at the public records office and on the university's web site at <https://wsu.edu>.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she confirms receipt of the information and the substance of the request in writing.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-030, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-030, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-030, filed 1/29/07, effective 3/1/07.]

WAC 504-45-040 Processing of public records requests—General. (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it is to "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee processes requests in the order allowing the most requests to be processed in the most efficient manner.

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

- (a) Makes the records available for inspection or copying;
- (b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, sends the copies to the requestor;
- (c) Provides a reasonable estimate of when records will be available;
- (d) If the request is unclear or does not sufficiently identify the requested records, requests clarification from the requestor. Such clarification may be requested and provided by telephone, email, or mail. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or
- (e) Denies the request.

(3) Consequences of failure to respond. If the university does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her 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 includes a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer or designee states the specific exemption and provides 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 or designee redacts the exempt portions, provides the nonexempt portions, and indicates to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university must promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor must indicate which documents he or she wishes the university to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. The university notifies the requestor in writing of this requirement and informs the requestor that he or she should contact the university 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 thirty-day period or make other arrangements, the university may close the request. 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.

(7) Providing copies of records. After inspection is complete, the public records officer or designee makes any copies of records requested by the requestor or arranges for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee provides access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty 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.

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

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee closes the request and indicates to the requestor that the university has closed the request.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional responsible documents existing at the time of the request, it must promptly inform the requestor of the additional documents and make them available for inspection or provide copies upon payment on an expedited basis.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-040, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-040, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-040, filed 1/29/07, effective 3/1/07.]

WAC 504-45-050 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 records in an electronic format, the public records officer or designee provides the nonexempt records or portions of such 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 access to databases. With the consent of the requestor, the university may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The university may charge a fee consistent with RCW 43.41A.130 for such customized access. (See WAC 504-45-070.)

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-050, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-050, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-050, filed 1/29/07, effective 3/1/07.]

WAC 504-45-060 Exemptions. (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. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the university for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside the act. The university's failure to list an exemption here does not affect the efficacy of any exemption.

- (a) RCW 5.60.060 - Privileged communications;
- (b) 20 U.S.C. 1232g - Family Education Rights and Privacy Act (FERPA);
- (c) 42 U.S.C. 405 (c)(2)(vii)(1) - Social Security numbers;
- (d) 45 C.F.R. parts 106 and 164 - Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- (e) Chapter 19.108 RCW and RCW 4.24.601 - Uniform Trade Secrets Act; and

(11/20/17)

(f) Chapter 10.97 RCW - Regarding criminal history information.

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

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-060, filed 11/20/17, effective 12/21/17; WSR 07-04-027, § 504-45-060, filed 1/29/07, effective 3/1/07.]

WAC 504-45-070 Costs of providing copies of public records. (1) Costs for copies of public records. There is no fee for inspecting public records. The following fees apply to copies of public records:

(a) Ten cents per page for records scanned into electronic format;

(b) Five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system;

(c) Ten cents per gigabyte for transmitting records electronically;

(d) Fifteen cents per page for photocopies of public records and/or printed copies of electronic public records when requested;

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge;

(f) Under RCW 42.56.120, the university may charge other copy fees authorized by statutes outside chapter 42.56 RCW.

(2) In addition to the charge imposed for providing copies of public records and for the use by any person of university equipment, the university may include a customized service charge. The university charges for customized services pursuant to RCW 42.56.120(3). The customized service charge may reimburse the university up to the actual cost of providing the services in this section. The university provides the requestor the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge. The university may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge. If the university makes a request available on a partial or installment basis, the university may charge for each part of the request as it is provided.

(3) Payment. Payment may be made by cash, check, or money order to the university.

(a) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The university notifies the requestor of when payment is due.

(b) The university closes a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

(4) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, Washington State University declares that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records for the following reasons:

(a) Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;

- (b) Staff resources are insufficient to perform a study and to calculate such actual costs; and
- (c) A study would interfere with and disrupt other essential agency functions.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-070, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-070, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-070, filed 1/29/07, effective 3/1/07.]

WAC 504-45-080 Review of denials 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 (including email) 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 must immediately consider the petition and either affirm or reverse such denial within two business days following the university's receipt of the petition, or within such other time as the university and the requestor mutually agree.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university 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 review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may request court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-080, filed 11/20/17, effective 12/21/17; WSR 08-08-055, § 504-45-080, filed 3/27/08, effective 4/27/08; WSR 07-04-027, § 504-45-080, filed 1/29/07, effective 3/1/07.]