

Chapter 516-09 WAC

PUBLIC RECORDS

WAC

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WAC 516-09-010 Authority and purpose. (1) For the purposes of this chapter, the Public Records Act, chapter 42.56 RCW, is referred to as the act. 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 Western Washington University will follow in order to provide full access to public records. Western Washington University shall hereinafter be referred to as the "university." Where appropriate, the term university also refers to the staff and employees of Western Washington 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 will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the university will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 08-01-106, § 516-09-010, filed 12/18/07, effective 1/18/08.]

WAC 516-09-020 Agency description—Contact information—Public records officer. (1) Western Washington University is an institution of higher education, authority for which is located in chapter 28B.35 RCW. The administrative offices of the university are located at the university's main campus at Bellingham, Washington.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making

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such a request, should contact the university's public records officer located at the main campus listed below:

Public Records Officer
Western Washington University
516 High Street
Bellingham, WA 98225
Phone: 360-650-2728
Fax: 360-650-4228

Current contact information and additional information regarding release of public records can be found online at the public records officer's web site.

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

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 18-01-078, § 516-09-020, filed 12/15/17, effective 1/15/18; WSR 16-09-114, § 516-09-020, filed 4/20/16, effective 5/21/16; WSR 08-01-106, § 516-09-020, filed 12/18/07, effective 1/18/08.]

WAC 516-09-030 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 in the presence of university staff. For the purposes of this chapter, the normal business hours for the public records office are from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding university holidays. Other hours of inspection may be arranged if the requestor and the public records officer or designee agree on a different time. Records must be inspected at the offices of the university in the presence of university staff.

(2) Index of records. The Western Washington University records retention schedule is the index of records and is available online at the university archives and records management web site.

(3) A requestor shall not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university web site. 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 must make the request in writing on the university's request form located at the public records officer's web site; or by letter, email, or fax addressed to the public records officer and including the following information:

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- (i) Name of requestor;
 - (ii) Address of requestor;
 - (iii) Other contact information, including telephone number and any email address;
 - (iv) Date and time of the request;
 - (v) Identification of the public records adequate for the public records officer to locate the records; and
 - (vi) A verification that the records requested shall not be used to compile a commercial sales list.
- (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 per WAC 516-09-070.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 18-01-078, § 516-09-030, filed 12/15/17, effective 1/15/18; WSR 08-01-106, § 516-09-030, filed 12/18/07, effective 1/18/08.]

WAC 516-09-03001 "Public record" defined. 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 any state agency regardless of physical form or characteristics. This definition does not include records that are not otherwise required to be retained by the agency and are held by volunteers who do not serve in an administrative capacity; have not been appointed by the agency to an agency board, commission, or internship; and do not have a supervisory role or delegated authority.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 18-01-078, § 516-09-03001, filed 12/15/17, effective 1/15/18; WSR 08-01-106, § 516-09-03001, filed 12/18/07, effective 1/18/08.]

WAC 516-09-040 Processing of public records requests—General. (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it will "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 will process 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 will do one or more of the following:

- (a) Make 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, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available;
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification shall be requested and provided in writing by mail or fax. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or
- (e) Deny the request.

(i) A request for all or substantially all records is not a valid request for identifiable records and will be denied. RCW 42.56.080(2).

(ii) A bot request that is one of multiple requests from the requestor to the agency within a twenty-four-hour period will be denied. A "bot request" means a request for public records that an agency reasonably believes was automatically generated by a computer program or script. RCW 42.56.080(2).

(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 to determine the reason for the failure to respond.

(4) Informing persons of records request. In the event that the request seeks records of named persons to whom the records pertain, the public records officer may, prior to providing records, give notice to such persons named in the request whose rights may be affected by the disclosure. The notice to the affected persons will include 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 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 are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university shall promptly provide space to inspect public records in the presence of university staff. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall 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 will notify the requestor in writing of this requirement and inform 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 shall make any copies of records requested by the requestor or arrange for copying.

(8) 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 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 will indicate that the university has completed a diligent search for the requested records, made any located nonexempt records available for inspection, and provided copies.

(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 will close the request and indicate 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 documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will make them available for inspection or provide copies upon payment on an expedited basis.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 18-01-078, § 516-09-040, filed 12/15/17, effective 1/15/18; WSR 08-01-106, § 516-09-040, filed 12/18/07, effective 1/18/08.]

WAC 516-09-050 Reserved.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 08-01-106, § 516-09-050, filed 12/18/07, effective 1/18/08.]

WAC 516-09-060 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 shall 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. 16-0164 - HIPAA Privacy Rule;
- (e) Chapter 19.108 RCW and RCW 4.24.601 - Uniform Trade Secrets Act; and
- (f) Chapter 10.97 RCW - Regarding criminal history information.

(2) The university is prohibited by RCW 42.56.070(9) from providing lists of individuals for commercial purposes.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 08-01-106, § 516-09-060, filed 12/18/07, effective 1/18/08.]

WAC 516-09-070 Costs of providing copies of public records. Costs for providing copies. Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce university resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records,

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including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the public records officer shall establish, maintain, and make available for public inspection and copying a statement of costs that the university charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b). The university may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor. Fees may be waived when the public records officer determines collecting a fee is not cost effective for the university.

Prior to providing records, the public records officer or designee may request the estimated cost of reproduction.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.100. WSR 18-01-078, § 516-09-070, filed 12/15/17, effective 1/15/18; WSR 08-01-106, § 516-09-070, filed 12/18/07, effective 1/18/08.]

WAC 516-09-080 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 to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) 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 to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(3) Judicial review. Any person may obtain 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.35.120(12) and 42.56.100. WSR 08-01-106, § 516-09-080, filed 12/18/07, effective 1/18/08.]