

Chapter 132M-110 WAC

PUBLIC RECORDS DISCLOSURE POLICY

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132M-110-030	Description of central and field organization of Community College District Number Thirteen. [Order 1-75, § 132M-110-030, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-040	Operations and procedures. [Order 1-75, § 132M-110-040, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-070	Office hours. [Order 1-75, § 132M-110-070, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-110	Review of denials of public records. [Order 1-75, § 132M-110-110, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-120	Protection of public records. [Order 1-75, § 132M-110-120, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-130	Records index. [Statutory Authority: RCW 28B.50.140, WSR 92-09-004, § 132M-110-130, filed 4/2/92, effective 5/3/92; Order 1-75, § 132M-110-130, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-140	Adoption of form. [Order 1-75, § 132M-110-140, filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.
132M-110-990	Appendix A—Request for public record. [Order 1-75, Appendix A (codified as WAC 132M-110-990), filed 11/10/75.] Repealed by WSR 18-11-094, filed 5/18/18, effective 6/18/18. Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304.

WAC 132M-110-010 Authority and purpose. (1) RCW 42.56.070(1) requires Lower Columbia College (college or 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 Lower Columbia College will follow in order to provide access to public records. These rules provide information to persons wishing to request access to public records of the college and establish processes for both requestors and college 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 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 college will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-010, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-010, filed 11/10/75.]

WAC 132M-110-020 Definitions. (1) "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 or local agency regardless of physical form or characteristics. This definition does not include records that are not otherwise required to be retained by the college and are held by volunteers who:

- Do not serve in an administrative capacity;
- Have not been appointed by the college to a college board, commission, or internship; and
- Do not have a supervisory role or delegated college authority.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) Relating to the "conduct of government" means to be a public record, a document must relate to the conduct of government or the performance of any governmental or proprietary function. Almost all records held by an agency relate to the conduct of government; however, some do not. A purely personal record having absolutely no relation to the conduct of government is not a public record. Even though a purely personal record might not be a public record, a record of its existence might be. For example, a record showing the exist-

tence of a purely personal email sent by an agency employee on an agency computer would probably be a public record, even if the contents of the email itself were not.

(4) "Prepared, owned, used, or retained" means a public record is a record prepared, owned, used, or retained by an agency. A record can be used by an agency even if the agency does not actually possess the record. If an agency uses a record in its decision-making process, it is a public record. For example, if an agency considered technical specifications of a public works project and returned the specifications to the contractor in another state, the specifications would be a public record because the agency used the document in its decision-making process. The agency could be required to obtain the public record, unless doing so would be impossible. An agency cannot send its only copy of a record to a third party for the sole purpose of avoiding disclosure.

(5) "Identifiable record(s)" means the public record request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by the college is not a valid request for identifiable records, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the college's records.

(6) "Bot request" means a request for public records that the college reasonably believes was automatically generated by a computer program or script.

(7) The Community College District Number Thirteen is an agency organized by statute pursuant to RCW 28B.50.040. The Community College District Number Thirteen shall hereinafter be referred to as the "college" and includes the institution known as Lower Columbia College. Where appropriate, the term college also refers to the board of trustees, and the officers, agents, and employees of the college.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-020, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-020, filed 11/10/75.]

WAC 132M-110-050 Public records availability. (1) Hours for inspection of records. Once a request is processed, public records of Lower Columbia College are available for inspection or receipt of copies during normal business hours of the college, Monday through Thursday 9:00 a.m. to 4:00 p.m., excluding legal holidays and other college closures. Records must be inspected at the Administration Building, 1600 Maple Street, Longview, WA 98632.

(2) Records index. An index of public records is available for use by members of the public, including nonexempt final orders, declaratory orders, interpretive statements, and policy statements, as defined by RCW 42.56.070(5), issued after June 30, 1990, by the board of trustees of the district, the presidents of the colleges, or their designees.

Form. The index shall reference final orders, declaratory orders, interpretive statements, or policy statements by one or more of the following classifications: Date of implementation, organizational unit, or subject matter.

Requests for access to indexes. Information regarding public inspection of indexes, their location, and a schedule for revising and updating these indexes can be obtained by contacting the public records officer.

(3) Organization of records. Lower Columbia College will maintain its records in a reasonably organized manner. The college will take reasonable actions to protect records from damage and disorganization. A requestor shall not take the college's records from Lower Columbia College offices without the permission of the public records officer or designee. A variety of records are available on the Lower Columbia College web site at www.lowercolumbia.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) The college shall not impose copying charges for access to or downloading of records that the college routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the college provide copies of records through other means.

(5) Making a request for public records.

(a) Any person wishing to inspect or receive copies of public records of the college should make the request in person during the college's normal office hours, or in writing on the college's request form, or by letter, fax, or email addressed to the public records officer. While no official format is required for making a records request, the college recommends that the requestor submit requests using the college provided request form. The request form is available at the office of the public records officer and online at www.lowercolumbia.edu. Regardless of format, the request must include the following information:

(i) Name of requestor;

(ii) Address of requestor;

(iii) Other contact information, including telephone number and any email address;

(iv) Identification of the public records must be for identifiable records; and

(v) The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, the requestor should so indicate and make arrangements to pay for copies of the records or a deposit.

(c) The public records officer or designee may accept requests for public records that contain the information in subsection (4) of this section by telephone or in person. If the public records officer or designee accepts such a request, they will confirm receipt of the information and the substance of the request in writing.

(d) The act does not allow an agency to provide access to "lists of individuals requested for commercial purposes." The request form includes an inquiry of the requestor whether the request is for commercial purposes. Lower Columbia College may also require a requestor to sign a declaration attesting that the request is not for use for commercial purposes.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-050, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-050, filed 11/10/75.]

WAC 132M-110-060 Public records officer. (1) Any person wishing to request access to public records of Lower Columbia College, or seeking assistance in making such a request should contact the public records officer of the college:

Vice President of Administration
 Lower Columbia College
 1600 Maple Street
 Longview, WA 98632
 Phone: 360-442-2201
 Fax: 360-442-2109

Email: publicrecords@lowercolumbia.edu

Information is also available at the college's web site at www.lowercolumbia.edu.

(2) The public records officer will oversee compliance with the act but another college staff member may process requests. Therefore, these rules will refer to the public records officer or designee.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-060, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-060, filed 11/10/75.]

WAC 132M-110-080 Requests for public records.

Both requestors and agencies have responsibilities under the act. The public records process can function properly only when both parties perform their respective responsibilities. An agency has a duty to promptly provide access to all non-exempt public records. A requestor has a duty to request identifiable records, inspect the assembled records or pay for the copies, and be respectful to agency staff.

(1) Providing "fullest assistance." Lower Columbia College 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 other essential functions of the agency, provide fullest assistance to requestors, and provide the timeliest 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 will do one or more of the following:

(a) Make the records available for inspection or copying;
 (b) If copies are requested and payment of a deposit 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; or

(d) Request clarification from the requestor by telephone or in writing if the request is unclear or does not sufficiently identify the requested records. To the greatest extent possible, the request for clarification will provide a reasonable estimate of the time required to respond to the request if it is not clarified. If the requestor fails to clarify the request, and the entire request is unclear, the public records officer need not respond to it. Otherwise, the public records officer must respond to those portions of the request that are clear. Once clarification is received, the public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Protecting rights of others. In the event the requested records contain information that may affect rights of others

and may reasonably be exempt from disclosure, the public records officer 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 will include a copy of the request.

(4) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the college 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.

(5) Inspection of records.

(a) Consistent with other demands, the college shall 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 shall indicate which documents he or she wishes the college to copy.

(b) The requestor must claim or review the assembled records within thirty days of the college's notification that the records are available for inspection or copying. The college will notify the requestor in writing of this requirement and inform the requestor to contact the college to make arrangements to claim or inspect 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 college may close the request and refile the assembled records. 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.

(6) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying by college staff.

(7) 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 the public records officer 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.

(8) 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 Lower Columbia College has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill the obligation to inspect the records or pays the deposit or final payment for the requested copies, the public records officer

will close the request and indicate to the requestor that the college has closed the request.

(10) Later discovered documents. If, after the college has informed the requestor that it has provided all available records, the college becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-080, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-080, filed 11/10/75.]

WAC 132M-110-090 Charges for public records.

Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, 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 college president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the college 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 college 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. The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-090, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-090, filed 11/10/75.]

WAC 132M-110-100 Exemptions. (1) Public Records Act exemptions. There are a number of types of records exempt from public inspection and copying. The college reserves the right to determine that a public record requested in accordance with WAC 132M-110-080, or any portion thereof, is exempt under the Public Records Act.

(2) Other exemptions. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the college for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside of the act to an academic setting. The college'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 Educational 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 - HIPPA 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.

(3) Identification of exemptions. A denial of any record, in whole or part, shall include a statement of the specific exemption(s) authorizing the withholding of the record (or portion thereof) and a brief explanation of how the exemption applies to the record of information withheld.

[Statutory Authority: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, and 42.56.120 as amended by 2017, c 304. WSR 18-11-094, § 132M-110-100, filed 5/18/18, effective 6/18/18; Order 1-75, § 132M-110-100, filed 11/10/75.]