

Chapter 495D-276 WAC

ACCESS TO PUBLIC RECORDS

WAC

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WAC 495D-276-010 Purpose. The purpose of this chapter is to ensure that College District 26 complies with the provisions of chapter 42.56 RCW and in particular with those sections of that chapter dealing with public records.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-010, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-010, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-020 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.

(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, combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, disks, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "College District 26" is an agency organized by statute pursuant to RCW 28B.50.040. College District 26 shall hereafter be referred to as the "college." Where appropriate, the term "college" also refers to the staff and employees of the college.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-020, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-020, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-030 Description of central and field organization of College District 26. (1) College District 26 is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the college is located on the Lake Washington Institute of Technology campus within the city of Kirkland, Washington. The Lake

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Washington Institute of Technology campus likewise comprises the central headquarters for all operations of the college.

(2) The college is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets at least once each month, as provided in WAC 495D-104-010. The board of trustees employs a president, an administrative staff, members of the faculty, and other employees. The board of trustees takes such actions and promulgates such rules and policies in harmony with the rules established by the state board for community and technical colleges, as are necessary to the administration and operation of the college.

(3) The president of the college is responsible to the board of trustees for the operation and administration of the college. A detailed description of the administrative organization of the college is contained within the policies and procedures manual for Lake Washington Institute of Technology, a current copy of which is available for inspection at the administrative office of the college.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-030, filed 2/6/18, effective 3/9/18; WSR 11-19-083, § 495D-276-030, filed 9/20/11, effective 10/21/11. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-030, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-040 Operations and procedures. (1) Formal decision-making procedures are established by the board of trustees through rules promulgated in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(2) Informal decision-making procedures at the college, as established by the board of trustees, are set forth in the policies and procedures manual of Lake Washington Institute of Technology, a current copy of which is available for inspection at the administrative office of the college.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-040, filed 2/6/18, effective 3/9/18; WSR 11-19-083, § 495D-276-040, filed 9/20/11, effective 10/21/11. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-040, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-050 Public records available. All public records of the college, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.56 RCW or other statutes.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-050, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-050, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-060 Public records officer. The public records officer will oversee compliance with the act but another college staff member may process the request. Therefore, these rules will refer to the public records officer or

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"designee." The public records officer or designee and Lake Washington Institute of Technology will provide the "fullest assistance" to requestors; create and maintain for use by the public and college officials an index to public records of Lake Washington Institute of Technology; 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 Lake Washington Institute of Technology.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-060, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-060, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays and holidays established by the college calendar.

[Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-070, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-080 Requests for public records. In accordance with the requirements of RCW 42.56.100 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) Any person wishing to request access to public records of Lake Washington Institute of Technology, or seeking assistance in making such a request should contact the public records officer of the college at:

Public Records Officer
Attn.: Administrative Services
Lake Washington Institute of Technology
11605 132nd Avenue N.E.
Kirkland, WA 98034
425-739-8201
publicrecords@lwtech.edu

(2) A public records 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 key-word or name shall not be considered a request for all of the college's records.

(3) A request should be made in writing on the Public Records Request form, or by letter, fax, or email addressed to the public records officer. The request should include the following information:

- (a) The name of the person requesting the record;
- (b) Address of the requestor;
- (c) Other contact information, including telephone number and any email address;
- (d) The date and time of day of the request;
- (e) Identification of the public records adequate for the public records officer or designee to locate the records;

(f) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested records as it is described in such current index;

(g) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(4) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in identifying the public records requested.

(5) The college may deny a bot request that is one of multiple requests from the requestor to the college within a twenty-four-hour period, if the college establishes that responding to the multiple requests would cause excessive interference with other essential functions of the college. For these purposes, "bot request" means a request for public records that the college reasonably believes was automatically generated by a computer program or script.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-080, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-080, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-090 Charges for public records. (1) **Cost.** 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 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.

(2) **Payment.** Payment may be made by cash, check, or money order to Lake Washington Institute of Technology. The college 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 college makes a request available on a partial or installment basis, the college may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the college is not obligated to fulfill the balance of the request. The college will close a request upon thirty days when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-090, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-090, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-100 Determination regarding exempt records. (1) The college reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 495D-276-080 is exempt pursuant to RCW 42.56.210 or other statute. Such determination may be made in consultation with an assistant attorney general assigned to the district.

(2) Pursuant to RCW 42.56.230, the college reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy or impair a vital governmental interest: Provided, however, in each case, the justification for the deletion shall be explained fully in writing.

(3) Responses to requests for public records must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within five business days as to whether his request for a public record will be honored.

(4) Every denial of a request for public records must be accompanied by a written statement, signed by the public records officer or his/her designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-100, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-100, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-110 Review of denials of public records requests. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the 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 shall 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 shall promptly provide the petition and any other relevant information to the president or appropriate vice president. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the college's receipt of the petition, or within such other time as mutually agreed upon by the college and the requestor.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if Lake Washington Institute of Technology 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.

(4) **Judicial review.** Any person may obtain a 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.

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[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-110, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-110, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-120 Protection of public records. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 495D-276-090.

[Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-120, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-130 Records index. (1) The college has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the college after September 1, 1991:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or any private party.

(2) The current index maintained by the college shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-130, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-130, filed 7/16/92, effective 8/16/92.]

WAC 495D-276-140 Adoption of form. The college shall adopt an appropriate form for use by all persons requesting inspection and/or copying or copies of its records.

[Statutory Authority: RCW 28B.50.140(13). WSR 18-04-101, § 495D-276-140, filed 2/6/18, effective 3/9/18. Statutory Authority: RCW 28B.50.140. WSR 92-15-081, § 495D-276-140, filed 7/16/92, effective 8/16/92.]