

Chapter 430-01 WAC
PUBLIC RECORDS DISCLOSURE PROCEDURE AND COLLECTION OF FEES

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WAC

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WAC 430-01-010 Authority and purpose. (1) EHB 1595 requires state agencies to make available for inspection and copying nonexempt "public records" in accordance with published rules. In compliance, this chapter is approved and adopted by the board of directors of Washington state school directors' association (WSSDA) to inform, facilitate, and regulate the collection of allowed charges for public records requests.

(2) These rules will be interpreted in favor of disclosure. Prompt assistance to the public shall be provided without affecting WSSDA's primordial mission of providing leadership, advocacy, and empowerment to its members.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-010, filed 4/16/18, effective 5/17/18.]

WAC 430-01-020 Definitions. (1) "Business days" are weekdays, Monday through Friday, excluding official Washington state holidays and state agency closures for any reason.

(2) "Public Records Act" means chapter 42.56 RCW.

(3) "WSSDA" means Washington state school directors' association established under chapter 28A.345 RCW.

(4) "Public records" 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 the agency.

(5) "Standard page" is an 8 x 11 size paper.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-020, filed 4/16/18, effective 5/17/18.]

WAC 430-01-030 Relevant training. All new WSSDA employees will receive basic training on public records, open government meeting, and records retention within ninety days from date of hire. Such training includes access to publications, online classes, and tutorials on the subject published and offered by different agencies of the state.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-030, filed 4/16/18, effective 5/17/18.]

WAC 430-01-040 Access to public records. The public records are available for public access according to these rules, except as otherwise provided by law.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-040, filed 4/16/18, effective 5/17/18.]

WAC 430-01-050 Public records address. WSSDA's public records officer is available at the following address, telephone and fax numbers or email address:

Office of Public Records/Open Public Meetings
221 College Street N.E.
Olympia, WA 98516-5313

WSSDA Public Records Officer
Phone: 360-493-9231
Fax: 360-252-3022
Attn: Public Records Officer
Email: PublicRecordsRequest@wssda.org

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-050, filed 4/16/18, effective 5/17/18.]

WAC 430-01-060 Requests for public records. WSSDA adopts the Public Records Act regarding all disclosure of its public records. All public records requests must include a reasonable description of the records to enable a WSSDA employee to locate the records requested.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-060, filed 4/16/18, effective 5/17/18.]

WAC 430-01-070 Responses to public records requests. In general, the public records officer shall respond within five business days from receipt of a request by doing one or more of the following:

- (1) Provide copies of the records requested or make the record available for inspection;
- (2) Provide an internet address and link to WSSDA's web site where the specific record can be accessed;
- (3) Acknowledge that WSSDA received the request and provide a reasonable estimate of the time to fully respond;
- (4) Acknowledge that WSSDA received the request and ask the requestor to clarify a request that is unclear, while providing to the greatest extent possible, a reasonable estimate of the time WSSDA needs to respond to the request if it is not clarified;
- (5) Deny the request;
- (6) When a requestor fails to respond to WSSDA's request for clarification within thirty days and the entire request is unclear, WSSDA may close the request without further response;
- (7) When a requestor fails to respond to WSSDA's request for clarification within thirty days and only part of the request is unclear, WSSDA will respond to the portion of the request that is clear and may close the remainder of the request;
- (8) In certain cases, WSSDA shall seek a court order enjoining disclosure pursuant to law;

(9) WSSDA shall deny a computer-generated bot request that is one of multiple requests from the requestor within a twenty-four hour period whenever WSSDA establishes that responding to the multiple bot requests would cause excessive interference with WSSDA's other essential functions;

(10) When WSSDA fails to respond in writing within five business days of receipt of the request for disclosure, the requestor can contact the public records officer or executive director to determine the reason for the failure to respond;

(11) When the number of responsive records to a request is voluminous and the time for locating, assembling, or reviewing the records is considerable, the public records officer may choose to respond in installments treating each installment as a separate public records request.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-070, filed 4/16/18, effective 5/17/18.]

WAC 430-01-080 Records exemption and court protection. WSSDA reserves the right to exempt public records from disclosure in accordance with chapter 42.56 RCW or other statutes which exempt or prohibit disclosure of specific information or records.

Whenever WSSDA believes that a record is exempt from disclosure and should be withheld, the public records officer shall specify in writing the exemption explaining how the exemption applies to the record withheld or redacted.

When only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer shall first redact the exempt portions; second, provide the nonexempt portions; and finally, explain in writing why portions of the record are exempt and redacted.

If the requested records contain information that may affect rights of others and the information is exempt from disclosure, the public records officer may, prior to providing the records, notify those affected to enable them to contact the requestor and ask him or her to revise the request, or, if necessary, seek a court order to prevent or limit the disclosure. The notice to the affected persons may also include a copy of the request.

WSSDA is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-080, filed 4/16/18, effective 5/17/18.]

WAC 430-01-090 Costs of providing copies of public records. (1) **Costs for paper copies.** There is no fee for inspecting public records and charges can be waived for humanitarian reasons. However, a requestor may obtain photocopies or printed copies for a fee of fifteen cents per standard 8 x 11 page.

WSSDA reserves [the right] to charge a flat rate of two dollars if the fees allowed under this procedure to provide the records are equal to, or more than, two dollars.

Before making the copies, the public records officer may require a deposit of up to ten percent of the estimated costs of copying all

the records selected by the requestor and the balance to be paid before completion of the records request.

If requested, calculations of the costs excluding sales tax shall be shown to the requestor.

(2) **Costs for electronic records.** The actual costs for electronic records are as follows:

(a) Ten cents per page for public records scanned into an electronic format or for the use of WSSDA equipment to scan the records;

(b) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery;

(c) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of WSSDA equipment to send the records electronically; AND

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

There is no charge for the emailing of electronic records to a requestor, unless another cost applies such as a scanning fee.

(3) **Costs of mailing.** WSSDA shall charge actual costs of mailing, including the cost of shipping.

(4) **Payment.** Payment is made by cash, check, or money order to WSSDA.

(5) **Customized charges.** A customized service charge is imposed by WSSDA when outside information technology experts are needed to prepare data compilations or to customize electronic access services when the compilations and customized access services are not used by WSSDA.

No customized service charge is applicable unless WSSDA notifies beforehand the requestor of the customized service charge explaining its reason, a description of the specific expertise needed, and a reasonable estimate of the charge.

These costs and charges are not exclusive and subject to change upon prior notice.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-090, filed 4/16/18, effective 5/17/18.]

WAC 430-01-100 General rules for charging. (1) **No fees for costs of inspection.** The costs of preparing and copying the records for inspection including the costs for redacting and getting the records from state archive will not be charged to the requestor.

(2) **Standard photocopy.** Standard photocopies are black and white paper copies. If WSSDA will charge more than the fifteen cents per page maximum for photocopies, a statement of the actual cost of the copies produced indicating the factors and the manner used to compute the cost.

(3) **Charges for copies other than standard photocopies.** Nonstandard copies include color copies, engineering/architectural drawings, and photographs. WSSDA can charge the actual costs for nonstandard photocopies.

(4) **Copying charges apply only to copies selected by requestor.** When a requestor seeks to inspect a large number of records but only selects a smaller group of records for copying, copy charges can only be charged for the records selected by the requestor.

(5) **Use of outside vendor.** WSSDA is not required to copy records at its own facilities and can utilize external commercial copying center and bill the requestor for the amount charged by the vendor. WSSDA can arrange with the requestor to pay the vendor directly. WSSDA shall not charge the default fifteen cents per page rate when the actual cost of the copying vendor is less. The default rate is only for agency-produced copy.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-100, filed 4/16/18, effective 5/17/18.]

WAC 430-01-110 Closing and compliance of public records requests. Closing requests. The request is deemed closed once the requested records or last installment of the request has been provided with the requestor expressly or impliedly acknowledging receipt without further follow-up communication being made.

Other closing conditions. A request is also deemed closed:

(1) When the requestor fails to make the required deposit of up to ten percent of the estimated costs of copying including the cost of customized service charge;

(2) When the requestor fails to timely respond to a notice of availability to inspect the records requested;

(3) When the requestor failed to inspect, pay, and/or pick up any or all of the requested records within fifteen business days of issuance of such notice of availability;

Records retention. Once closed, the records of the public records request is retained and the originals of any records assembled in response to the request refiled. Any duplicate copies of records may be destroyed in accordance with records retention schedule.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-110, filed 4/16/18, effective 5/17/18.]

WAC 430-01-120 Review of denials of public records requests. The requestor may submit a petition for reconsideration either with the records officer or executive director of WSSDA for any denial of a public records request.

Upon receipt of the petition, the public records officer or executive director of WSSDA will review the petition the approval or disapproval of which constitute the final action of WSSDA.

[Statutory Authority: Chapters 28A.345 and 42.56 RCW. WSR 18-09-072, § 430-01-120, filed 4/16/18, effective 5/17/18.]