

WSR 23-17-024

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 8, 2023, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-055.

Title of Rule and Other Identifying Information: WAC 192-02-060
Making a request for public records and 192-02-130 Denials of requests.

Hearing Location(s): On September 28, 2023, at 9:00 a.m. PST, via Zoom, Meeting ID 832 5819 3394, Passcode 965187; or call in +12532050468,,83258193394#,,,,*965187# US, +12532158782,,83258193394#,,,,*965187# US (Tacoma). Join Zoom meeting <https://esd-wa-gov.zoom.us/j/83258193394?pwd=WURHbVFBakpoRjBLYXV0dzJoUncxdz09>.

Date of Intended Adoption: October 2, 2023.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by September 28, 2023.

Assistance for Persons with Disabilities: Contact: Teresa Eckstein, phone 360-507-9890, fax 360-507-9890, TTY relay 711, email Teresa.eckstein@esd.wa.gov, by September 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to update the regulations governing the department's public records processes, including the information required to be submitted as part of a public records request and requests for the department to review a response denying a public records request.

Reasons Supporting Proposal: The department's public records rules should be updated to include a clear process for a requestor to ask the department to review a response denying a public records request, and the information required to be provided in a public records request should be updated to remove information that the department does not need.

Statutory Authority for Adoption: RCW 42.56.100, 50.13.030, 50A.25.030, and 50B.04.170 provide authority for the agency to adopt rules regarding access to agency records. RCW 50.12.010, 50.12.040, 50.13.030, and 50A.25.030 provide the agency's general rule-making authority.

Statute Being Implemented: RCW 42.56.100, 50.13.030, 50A.25.030, and 50B.04.170.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, <https://esd.wa.gov/newsroom/rulemaking/>.

Scope of exemption for rule proposal:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. [No information supplied by agency.]

August 7, 2023

Joy Adams

Interim Director

Employment System Policy and Integrity Division

OTS-4742.2

AMENDATORY SECTION (Amending WSR 20-21-071, filed 10/16/20, effective 11/16/20)

WAC 192-02-060 Making a request for public records. (1) To request access to public records of the department, or seek assistance in making such a request, contact the public records officer at:

Public Records Officer
P.O. Box 9046
Olympia, WA 98507-9046
Phone: 1-844-766-8930
Email: recordsdisclosure@esd.wa.gov

(2) Any person wishing to inspect or copy public records of the department shall make the request in writing to the public records officer through one of the following:

- (a) On the department's request form;
- (b) Through an online portal designated by the department for this purpose;
- (c) By letter mailed to the address listed in subsection (1) of this section;
- (d) By email sent to the address listed in subsection (1) of this section; or
- (e) By submitting the request in person at the address provided on the department's website.

(3) Public records request should include:

- (a) The name of requestor;
- (b) ~~((The address of requestor;~~
- ~~(c) Other))~~ (c) Contact information, including telephone number and any email address;
- ~~((d))~~ (c) Identification of the public records adequate for the public records officer to locate the records; and
- ~~((e))~~ (d) The date and time of day of the request.

(4) 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.

(5) A records request form is available for use by requestors at the office of the public records officer and online at the department's website.

(6) If requestors refuse to identify themselves or provide sufficient contact information, the department will respond to the extent feasible and consistent with the law.

AMENDATORY SECTION (Amending WSR 20-21-071, filed 10/16/20, effective 11/16/20)

WAC 192-02-130 Denials of requests. (1) A denial of a request for records will be accompanied by a written statement of the specific reasons therefor.

(2) If the department denies a requestor access to public records, the requestor 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 denying the request.

(3) The department shall promptly review a petition to review a denial of a public records request and either affirm or reverse the denial within two business days following the department's receipt of the petition or within such other time as the department and the requestor mutually agree to.

(4) If the department 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, pursuant to RCW 42.56.530. The attorney general has adopted rules on such requests in WAC 44-06-160.

~~((3))~~ (5) Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550.