

Chapter 292-130 WAC

AGENCY ORGANIZATION—PUBLIC RECORDS

WAC

292-130-010	Purpose.
292-130-020	Agency description—Contact information—Public records officer.
292-130-030	Operations and procedures.
292-130-040	Executive director.
292-130-050	Availability of public records.
292-130-100	Processing of public records requests—General.
292-130-110	Costs of providing copies of public records.
292-130-130	Exemptions.
292-130-140	Review of denials of public records request.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

292-130-060	Index prior to January 1, 2001. [Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-060, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-060, filed 11/3/98, effective 12/4/98.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.
292-130-065	Index after January 1, 2001. [Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-065, filed 6/13/01, effective 7/14/01.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.
292-130-070	Public records—Officer. [Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-070, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-070, filed 11/3/98, effective 12/4/98.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.
292-130-080	Hours for seeking public records. [Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-080, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-080, filed 11/3/98, effective 12/4/98.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.
292-130-090	Requests for public records. [Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-090, filed 11/3/98, effective 12/4/98.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.
292-130-120	Protection of public records. [Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-120, filed 11/3/98, effective 12/4/98.] Repealed by WSR 16-16-075, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360.

WAC 292-130-010 Purpose. The purpose of this chapter is to provide rules implementing RCW 34.05.220 and chapter 42.56 RCW for the executive ethics board.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-010, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-010, filed 11/3/98, effective 12/4/98.]

WAC 292-130-020 Agency description—Contact information—Public records officer. (1) The executive ethics board was created by chapter 42.52 RCW to enforce the state's ethics law and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(7/29/16)

The executive ethics board consists of five members, appointed by the governor as follows: One member shall be a classified service employee; one member shall be a state officer or state employee in an exempt position; one member shall be a citizen selected from a list of three names submitted by the attorney general; one member shall be a citizen selected from a list of three names submitted by the state auditor; and, one member shall be a citizen at large selected by the governor.

(2) Any person wishing to request access to public records of the executive ethics board, or seeking assistance in making such a request, should contact the public records officer of the executive ethics board:

Executive Director
Executive Ethics Board
2425 Bristol Court S.W.
P.O. Box 40149
Olympia, WA 98504-0149
360-664-0871
360-586-3955 (fax)
ethics@atg.wa.gov

Information and a request form is also available at the executive ethics board's web site at www.ethics.wa.gov. The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday except legal holidays and during regularly scheduled board meetings.

(3) The public records officer will oversee compliance with the act but another executive ethics board 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 executive ethics board will provide the "fullest assistance" to requestors; create and maintain for use by the public and executive ethics board officials an index to public records of the executive ethics board; 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 executive ethics board.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-020, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-020, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-020, filed 11/3/98, effective 12/4/98.]

WAC 292-130-030 Operations and procedures. The board holds regular scheduled meetings on the second Friday of each month at 9:00 a.m. unless a different time is noted on the agenda. The meetings are held at the administrative office location unless circumstances require relocating to another site as designated by the executive director of the board.

All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). Three members of the board constitute a quorum. Any matter coming before

the board may be decided by a majority vote of those members present and voting. Minutes shall be taken at all meetings.

The board issues advisory opinions; develops education and training materials; investigates, hears, and determines complaints; reviews and approves agency ethics policies; and, reviews, approves, or denies contracts between state officers and employees and state agencies.

Written communications intended for board consideration or action shall be filed with the administrative office.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-030, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 05-19-142, § 292-130-030, filed 9/21/05, effective 10/22/05. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-030, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-030, filed 11/3/98, effective 12/4/98.]

WAC 292-130-040 Executive director. The executive director shall perform the following duties under the general authority and supervision of the board:

(1) Make initial determinations, pursuant to RCW 42.52.425 and WAC 292-100-045, regarding complaints received by the board;

(2) Render informal nonbinding advice, pursuant to WAC 292-110-050;

(3) Make initial determinations, pursuant to RCW 42.52.120 and WAC 292-110-060, regarding approval of certain contracts between state agencies and state officers or employees;

(4) Act as records officer and administrative arm of the board;

(5) Coordinate the policies of the board and the activities of board staff and supervise board staff as appropriate;

(6) Act as a liaison between the board and other public agencies; and

(7) Conduct ethics training and information outreach.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-040, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-040, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-040, filed 11/3/98, effective 12/4/98.]

WAC 292-130-050 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying Monday through Friday, 9:00 a.m. to noon, and 1:00 p.m. to 4:00 p.m., excluding legal holidays and during scheduled board meetings. Records must be inspected at the offices of the executive ethics board.

(2) **Records index.** An index of public records is available for use by members of the public, including final orders, stipulations and advisory opinions. The indices for these documents are available upon request.

(3) **Organization of records.** The executive ethics board will maintain its records in a reasonably organized manner. The executive ethics board will take reasonable actions to protect records from damage and disorganization. A requestor shall not take executive ethics board records from executive ethics board offices without the permission of the public records officer or designee. A variety of records is available on the executive ethics board web site at www.ethics.wa.gov. 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 executive ethics board should make the request in writing on the executive ethics board request form, or by letter, fax, or email addressed to the public records officer and including 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 adequate for the public records officer or designee to locate the 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, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 292-130-110, standard black and white and color photocopies will be provided at fifteen cents per page.

(c) A form is available for use by requestors at the office of the public records officer and online at www.ethics.wa.gov.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-050, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-050, filed 11/3/98, effective 12/4/98.]

WAC 292-130-100 Processing of public records requests—General. (1) Providing "fullest assistance."

The executive ethics board 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 "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 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) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Consequences of failure to respond.** If the executive ethics board does not respond in writing within five busi-

ness days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee 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.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the executive ethics board believes that a record is exempt from disclosure and should be withheld, the public records officer or designee 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 or designee 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 executive ethics board 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 executive ethics board to copy.

(b) The requestor must claim or review the assembled records within thirty days of the executive ethics board's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency 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 executive ethics board 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.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee will make the requested copies 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 executive ethics board has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(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 or designee will close the request and indicate to the requestor that the executive ethics board has closed the request.

(11) **Later discovered documents.** If, after the executive ethics board has informed the requestor that it has provided all available records, the executive ethics board 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 42.52.360. WSR 16-16-075, § 292-130-100, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-100, filed 11/3/98, effective 12/4/98.]

WAC 292-130-110 Costs of providing copies of public records. (1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies or color copies for fifteen cents per page. Copying fees will be waived for twenty-five or fewer photocopies.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The executive ethics board will not charge sales tax when it makes copies of public records.

(2) **Costs for electronic records.** The cost of electronic copies of records shall be one dollar for information on a CD-ROM. There will be no charge for emailing electronic records to a requestor.

(3) **Costs of mailing.** The executive ethics board may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check, or money order to the executive ethics board.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-110, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-110, filed 11/3/98, effective 12/4/98.]

WAC 292-130-130 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 executive ethics board for inspection and copying:

Under RCW 42.52.420 the identity of a person filing a complaint under RCW 42.52.410(1) is exempt from public disclosure as provided for in RCW 42.56.240.

(2) The executive ethics board is prohibited by statute from disclosing lists of individuals for commercial purposes.

(3) During the course of an investigation, records generated or collected as a result of the investigation may be exempt from public inspection and copying under RCW 42.56.240.

(a) The investigation is not considered complete until a case is resolved either by a stipulation and settlement that is signed by all parties; or, when the board enters a final order after a public hearing.

(b) The following records are not considered part of the investigation file and are releasable upon request:

- (i) Complaints, upon receipt by the respondent;
- (ii) The board staff's investigation report;
- (iii) The board's findings of reasonable cause or no reasonable cause; and
- (iv) Stipulations and settlements, upon receipt by the board.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-130, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. WSR 01-13-033, § 292-130-130, filed 6/13/01, effective 7/14/01. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-130, filed 11/3/98, effective 12/4/98.]

WAC 292-130-140 Review of denials of public records request. (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 (including email) to the public records officer or designee for review of that decision. The petition should 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 or designee will promptly provide the petition and any other relevant information to the chair of the board or the chair's designee. The chair or the chair's designee will immediately consider the matter and either affirm or reverse such denial within two business days following the executive ethics board's receipt of the petition, or within such other time as mutually agreed upon by the requestor and executive ethics board, or call a special meeting of the board as soon as legally possible to review the denial.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530 if the executive ethics board 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 court review of denials of public records requests pursuant to RCW 42.56.550.

[Statutory Authority: RCW 42.52.360. WSR 16-16-075, § 292-130-140, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 42.52.360 (2)(b). WSR 98-22-072, § 292-130-140, filed 11/3/98, effective 12/4/98.]