

Chapter 10-04 WAC

AGENCY ORGANIZATION—PUBLIC RECORDS

WAC

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WAC 10-04-010 Purpose. The purpose of this chapter is to provide rules for the office of administrative hearings to implement the provisions of chapter 42.56 RCW relating to public records.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-010, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-010, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-010, filed 11/1/82.]

WAC 10-04-015 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Case" means an adjudicative proceeding as defined in RCW 34.05.010(1).

(2) "Case file" means the same thing as "official record" while a case is pending with the office. Once a case is no longer pending with the office, "case file" means any records possessed by the office which are copies of all or part of the official record.

(3) "Days" means calendar days unless otherwise stated.

(4) "Office" means the office of administrative hearings. Where appropriate, office also refers to the staff and employees of the office of administrative hearings.

(5) "Official record" means the complete record of a case, as defined in RCW 34.05.476. The official record may be either paper or electronic. The official record does not include any additional copies or drafts of documents, or notes.

(6) "Page" means one impression on a single side of a sheet of paper, or the electronic equivalent.

(7) "Public records officer" means the public records officer or designee for the office appointed by the chief administrative law judge.

(8) "Referring agency" means an agency that refers cases to the office under RCW 34.05.425 (1)(c).

(4/16/18)

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-015, filed 12/20/17, effective 1/20/18.]

WAC 10-04-020 Description of the office of administrative hearings. (1) The office conducts impartial administrative hearings for referring agencies under chapter 34.12 RCW.

(2) The office headquarters is located at 2420 Bristol Ct. SW, P.O. Box 42488, Olympia, Washington, 98504-2488. The headquarters hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, except legal holidays.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-020, filed 12/20/17, effective 1/20/18; WSR 15-02-087, § 10-04-020, filed 1/7/15, effective 1/12/15. Statutory Authority: Chapter 34.12 RCW. WSR 13-08-047, § 10-04-020, filed 3/28/13, effective 4/28/13; WSR 08-12-025, § 10-04-020, filed 5/29/08, effective 6/29/08. Statutory Authority: RCW 34.12.030 (6). WSR 06-08-009, § 10-04-020, filed 3/23/06, effective 4/23/06. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-020, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 42.17.250 [(1)](a). WSR 93-10-098, § 10-04-020, filed 5/5/93, effective 6/5/93. Statutory Authority: RCW 42.17.250 and 34.05.220 (1)(b). WSR 89-13-036 (Order 6), § 10-04-020, filed 6/15/89. Statutory Authority: RCW 42.17.250 and 34.04.020. WSR 85-22-032 (Order 4), § 10-04-020, filed 10/31/85. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-020, filed 11/1/82.]

WAC 10-04-025 Organization, operations, and procedures. The office is under the direction of the chief administrative law judge. Administrative law judges preside over hearings in cases and issue initial or final orders, including findings of fact and conclusions of law. Administrative law judges are assigned to locations in Olympia, Seattle, Spokane Valley, and Tacoma.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-025, filed 12/20/17, effective 1/20/18.]

WAC 10-04-030 Public records officer. (1) The public records officer is appointed by the chief administrative law judge and is located in the headquarters office.

(2) The public records officer is responsible for implementing these rules and ensuring the fullest assistance to requestors.

(3) The public records officer is responsible for overseeing compliance with the Public Records Act, but staff members may process requests.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-030, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-030, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-030, filed 11/1/82.]

WAC 10-04-035 Availability of records. Public records are available for inspection during normal business hours. For the purposes of this chapter, normal business hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m. Mon-

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day through Friday, except legal holidays. Records must be inspected at the headquarters office or other location as authorized by the public records officer.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-035, filed 12/20/17, effective 1/20/18.]

WAC 10-04-037 Location of case records. (1) The office is the custodian of the official record only while a case is pending with the office. The referring agency is the custodian of the official record at all other times.

(2) Requestors seeking to inspect or receive copies of the official record for cases pending with the office should direct their requests to the office. Requestors seeking to inspect or receive copies of the official record for cases that are no longer pending with the office should direct their requests to the referring agency.

(3) Requestors seeking to inspect or receive copies of the case file should direct their requests to the office.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-037, filed 12/20/17, effective 1/20/18.]

WAC 10-04-040 Requests for public records. (1) Prior to submitting a records request, requestors are encouraged to view documents available on the office web site at www.oah.wa.gov.

(2) Requestors seeking to inspect or receive copies of public records must give reasonable notice to the office that the request is for public records. The request should be addressed to the public records officer.

(3) Requestors may use the public records request form available at www.oah.wa.gov.

(4) Requestors are encouraged to include the following information in the request:

- Name of requestor;
- Contact information of requestor, such as telephone number, mailing address, and email address;
- The date of the request;
- Enough information about the public records being requested to allow the office to reasonably identify and locate any responsive records; and
- Preferred method of receiving the responsive records.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-040, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-040, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-040, filed 11/1/82.]

WAC 10-04-045 Responses to public records requests. (1) Within five business days of receipt of the request, the public records officer will acknowledge receipt and do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) Send copies of the records to the requestor, if copies are requested and the requestor has paid any fees that are due;
- (c) Provide a reasonable estimate of when the records will be available;
- (d) Request clarification from the requestor, if the request is unclear or does not sufficiently identify the requested records; or
- (e) Deny the request.

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(2) Before providing public records, the public records officer may notify others potentially affected by the disclosure of those records, so that they can seek a court order to prevent or limit the disclosure under RCW 42.56.540. The notice to the affected persons will include a copy of the public records request.

(3) Some records are exempt from disclosure, in whole or in part, and may be withheld or redacted.

(4) The office is not required to create a record that does not otherwise exist.

(5) The public records officer will close a request and inform the requestor that the office has closed the request if the requestor:

- (a) Withdraws the request;
- (b) Fails to inspect the records;
- (c) Fails to pay a fee for records within thirty days after the office sends notification of the fee to the requestor; or
- (d) Fails to claim copies of records within thirty days after the office sends notification that the copies are available.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-045, filed 12/20/17, effective 1/20/18.]

WAC 10-04-050 Inspection of public records. (1) The office will provide space to inspect public records.

(2) The office will notify the requestor in writing that the records are available to inspect. Within thirty days after the office sends notification, the requestor must make arrangements with the office to inspect the records.

(3) After inspection is complete, the requestor must identify which records he or she wishes the office to copy. Depending on staff availability and the volume of records requested, the office may copy the records at that time or provide the records to the requestor at a later date.

(4) When the inspection of the requested records is complete and all requested copies are provided, the public records officer will send notification to the requestor that the request is closed.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-050, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-050, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-050, filed 11/1/82.]

WAC 10-04-055 Protection of public records. (1) The office will maintain its records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization.

(2) Records will be made available to the requestor for inspection subject to the following restrictions:

- (a) The records must not be removed from the designated area;
- (b) The public records officer may limit the number of pages provided for inspection at one time;
- (c) All possible care must be taken to prevent damage to the records;
- (d) Records may not be marked, altered, cut or mutilated in any way;
- (e) Use of liquids, eating, drinking, and smoking while inspecting the records is prohibited;

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(f) Records must not be defaced in any way, including by writing on, folding, tracing or fastening them with fasteners other than those already existing in file;

(g) Records must be kept in the order in which they are received; and

(h) All copying of records will be done by office staff.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-055, filed 12/20/17, effective 1/20/18.]

WAC 10-04-060 Installments. The public records officer may provide access to records in installments under RCW 42.56.080.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-060, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-060, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 42.17.250 and 34.05.220 (1)(b). WSR 89-13-036 (Order 6), § 10-04-060, filed 6/15/89. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-060, filed 11/1/82.]

WAC 10-04-065 Electronic records. (1) When providing electronic records, the public records officer will provide records in a file format that is generally commercially available.

(2) If a record exists on a web page, the public records officer may respond by providing the link to the record.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-065, filed 12/20/17, effective 1/20/18.]

WAC 10-04-070 Exemptions. (1) The office must determine if a public record requested is exempt from disclosure, in whole or in part, under chapter 42.56 RCW or other applicable law.

(2) If an entire record is exempt from disclosure it will be withheld. For each record withheld, the public records officer will identify the record, note the applicable exemption and give a brief explanation for each exemption. If only parts of a record are exempt from disclosure, the public records officer will redact the exempt parts, note the applicable exemptions, and give a brief explanation for each exemption.

(3) The office is prohibited by statute from disclosing lists of individuals for commercial purposes under RCW 42.56.070(8).

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-070, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-070, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-070, filed 11/1/82.]

WAC 10-04-075 Fees for providing public records.

(1) There is no fee for inspecting public records.

(2) The office will charge for providing copies of public records and will maintain a fee schedule on its web site. The office may waive fees when the costs of processing the payment are reasonably likely to exceed the amount of the fees that would be charged.

(3) The office is not calculating actual costs for copying its records because doing so would be unduly burdensome for the following reasons:

(a) The office does not have the resources to conduct a study to determine actual copying costs;

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(b) Conducting such a study would interfere with other essential agency functions; and

(c) Through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act and other laws.

(4) The office uses the standard fees and costs authorized in RCW 42.56.120.

(5) The public records officer may require payment of fees before providing the records.

(a) Before beginning to copy public records, a deposit of up to ten percent of the estimated costs of copying may be required.

(b) Payment of the costs of copying an installment may be required before the installment is provided.

(c) If payment of fees is required, the office will send notification to the requestor. Within thirty days after the office sends notification, the requestor must pay the fee or make other arrangements with the office.

(6) The office will not charge sales tax for copies of public records.

(7) The office will accept payment by check, money order, or cash. For cash payments, it is within the office's discretion to determine the denomination of bills and coins that will be accepted.

[Statutory Authority: RCW 34.12.030(6). WSR 18-09-057, § 10-04-075, filed 4/16/18, effective 5/17/18; WSR 18-01-144, § 10-04-075, filed 12/20/17, effective 1/20/18.]

WAC 10-04-080 Agency review of denials or time estimates. (1) A requestor whose request for a public record has been denied or who believes that the office has not made a reasonable estimate of the time to respond to the request may petition the chief administrative law judge for review of the denial or estimate.

(a) The petition must be in writing and include a copy of, or reasonably identify, the written statement by the public records officer denying the request or providing the estimate.

(b) The petition must be sent to the public records officer who will promptly provide the petition and any other relevant information to the chief administrative law judge to conduct the review.

(2) The chief administrative law judge will consider the petition and either affirm, modify, or reverse the denial or the estimate. This review will be completed within two business days following the office's receipt of the petition, or within such times as mutually agreed by the office and the requestor.

(3) If the office denies access to a public record because it claims the record is exempt from disclosure in whole or in part, the requestor may request the attorney general's office to review the denial under RCW 42.56.530.

(4) A requestor may obtain judicial review of a denial of a public records request under RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any administrative appeal.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-080, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-080, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-080, filed 11/1/82.]

WAC 10-04-085 Records index. (1) The office's index of public records is available at www.oah.wa.gov.

(2) The state general records retention schedule and the office's records retention schedule supplement the office's index.

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-085, filed 12/20/17, effective 1/20/18.]

WAC 10-04-090 Communications with the office of administrative hearings. Information about requesting public records from the office is at www.oah.wa.gov. Requests for public records and related questions should be directed to the public records officer, who may be contacted as follows:

Public Records Officer
Office of Administrative Hearings
P.O. Box 42488
Olympia, WA 98504-2488
360-407-2700
publicrecords@oah.wa.gov

[Statutory Authority: RCW 34.12.030(6). WSR 18-01-144, § 10-04-090, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 34.05.020, 34.12.030 and 42.17.250. WSR 99-20-115, § 10-04-090, filed 10/6/99, effective 11/6/99. Statutory Authority: RCW 34.04.020 and 47.17.250 - 47.17.320 [42.17.250 - 42.17.320]. WSR 82-22-052 (Order 3), § 10-04-090, filed 11/1/82.]