



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Bellevue Community College,
Community College District VIII,

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: April 28, 1999

(2) Purpose:

Repeals currently outdated rules for requesting access to public records at Bellevue Community College and establishes new ones that are in consonance with current practice.

(3) Citation of existing rules affected by this order:

Repealed: WAC 132H-168
Amended:
Suspended:

(4) Statutory authority for adoption: RCW 28B.50.140
Other authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 99-05-018 on Feb. 8, 1999 (date).
Describe any changes other than editing from proposed to adopted version:
None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules
or Expedited Rule Making

- 31 days after filing
- Other (specify) _____*

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

NAME (TYPE OR PRINT)

Elise J. Erickson

SIGNATURE

TITLE

Rules Coordinator

DATE

4/28/99

CODE REVISER USE ONLY

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**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted state statutes:	New _____	Amended _____	Repealed _____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New 1 Amended _____ Repealed 1

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New 1 Amended _____ Repealed 1

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New <u>1</u>	Amended _____	Repealed <u>1</u>

REPEALER

The following sections of WAC 132H-168 are repealed.

WAC 132H-168-010 Access to public records

WAC 132H-168-020 Purpose.

WAC 132H-168-030 Request for documents - Procedure.

WAC 132H-168-040 Appeal.

WAC 132H-168-050 Exemptions.

WAC 132H-168-060 Copying.

WAC 132H-168-070 Protest.

WAC 132H-168-080 Office hours.

WAC 132H-168-090 Sanctions.

WAC 132H-168-990 Form – Request for public records.

WAC 132H-168-9901 Form – Appeal to decision to review public records.

WAC 132H-168-9902 Form – Records office request for review of public records.

WAC 132H-168-9903 Form – Request for copy of public record.

Chapter 132H-169 WAC

ACCESS TO PUBLIC RECORDS AT BELLEVUE COMMUNITY COLLEGE

NEW SECTION

WAC 132H-169-010 Title. This chapter shall be known as access to public records at Bellevue Community College.

NEW SECTION

WAC 132H-169-020 Purpose. The purpose of this chapter is to ensure compliance with the provisions of the Washington state public disclosure laws (RCW 42.17.250 ff.) governing access to public records, while at the same time preserving the right to privacy for college students and employees and minimizing disruption to the operation of college programs and services.

NEW SECTION

WAC 132H-169-030 Definitions. (1) "Public record" as defined by RCW 42.17.020(36) means "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." All public records of Bellevue Community College, Community College District VIII, are considered to be available for public access except as exempted or limited by WAC 132H-169-070.

(2) "Writing" as defined by RCW 42.17.020(42) includes all means of recording any form of communication or representation, including documents, pictures, computer tapes or disks, and sound recordings.

NEW SECTION

WAC 132H-169-040 Requests for Access. Requests for access to and/or copies of public records maintained at Bellevue Community College shall be made in writing to the Vice President for Administrative Services, 3000 Landerholm Circle SE, Bellevue, Washington, 98007. Requesters should submit form BCC 010-072, "Request for Public Records," or write a letter to the Vice President for Administrative Services which:

- (1) provides the requester's name, full mailing address, and telephone number;
- (2) states whether the requester is representing him/herself or is representing an agency or company, and if so, gives the agency or company name;
- (3) for records concerning a past or present Bellevue Community College student, provides the name, student identification number, and last date of attendance (if known) of that student;
- (4) for records concerning a past or present Bellevue Community College employee, provides the name, job title or department, and last date of employment (if known) of that employee;
- (5) provides a specific and detailed description of the record being requested;
- (6) states whether the requester wishes only to examine the record and will come to the college to do so or, instead, wishes to obtain a copy of the record;
- (7) certifies that the requester (a) will not use the information obtained through the request for public records for commercial purposes,
 - (b) has read and understood WAC 134H Chapter 169, and
 - (c) agrees to return the record in its original condition if the requester examines the record on campus or to pay the cost of having the copy made.

NEW SECTION

WAC 132H-169-050 Response to Requests. (1) The Vice President for Administrative Services or his/her designee will respond to the request within five business days after receiving it.

- (2) Depending on the nature of the request and of the record concerned, the Vice President for Administrative Services will respond in one of the following ways:
 - (a) make the record available or provide a copy as requested;
 - (b) state that the record as described does not exist at Bellevue Community College at this time;
 - (c) acknowledge the request and ask for additional descriptive information, in cases where the description provided is incomplete or unclear;
 - (d) acknowledge the request and state a date by which the record(s) will be provided, for example in cases where the request is for large numbers of documents or records in out-of-the-ordinary formats, or when the request has been made at peak periods such as registration or the first week of instruction;
 - (e) deny the request in whole or in part and indicate the specific reason for the denial.

NEW SECTION

WAC 132H-169-060 Appeal After Request is Denied. If a request for access to public records is submitted according to WAC 132H-169-040 and is denied, the college is required to conduct an internal review of the denial and the requester has the right to appeal the decision to

deny access. The requester should address his/her reason for appeal in writing to the college President who, after consulting with the Vice President for Administrative Services, other college administrators, and legal counsel as appropriate, shall respond in writing within five business days after receiving the appeal. The president's decision is considered final.

NEW SECTION

WAC 132H-169-070 Exemptions and Limitations. (1) Certain public records are exempt from public access according to RCW 42.17.310. Access to these records will not be granted unless the Vice President for Administrative Services determines that disclosure would not affect any vital governmental interest. If the interest can be protected by deletion of personal references, access shall be granted following deletion of such material, and a reasonable time shall be allowed for deleting the material.

(2) Student educational records are available only in accordance with the federal Family Educational Rights and Privacy Act of 1974 (20 USC 1232g), which establishes that the education records of students attending or having attended the college are confidential and can be released only with written permission of the student.

(3) Records concerning applicants to and employees of Bellevue Community College are available only to such faculty and staff members, including supervisory personnel, who must have access to certain records in order to carry out the business of the college. The only information contained in an individual's employee file which shall be available for public inspection shall be the name, status, salary, and teaching duties of the employee. The employee, however, shall have full access to his/her personnel file as provided by the pertinent bargaining unit agreement.

NEW SECTION

WAC 132H-169-080 Notification of Affected Persons. If the requested record is not exempt from release under WAC 132H-169-070 and contains information which could identify an individual or agency, Bellevue Community College may notify the individual or agency thus identified that release of the record has been requested. In such cases the college's initial response to the request under WAC 132H-169-050(2)(d) will allow a reasonable time for the identified individual or agency to seek court protection from release of the record.

NEW SECTION

WAC 132H-169-090 Protest Concerning Access. Any student, employee, or applicant who believes that a record has been or is about to be released and who believes that his/her right to privacy will be infringed by public inspection of the record may file a protest with the Vice President for Administrative Services, who will review the initial request and the protest. If the Vice President for Administrative Services determines that access to the record should then be denied, he/she shall take appropriate and timely action, including a request for an injunction if justified.

NEW SECTION

WAC 132H-169-100 Requests for Review Only. A requester may choose to review the public record in person. In this case, a mutually-agreeable time and place will be arranged, during normal business hours on the college campus. The requester is expected to handle the

materials carefully and return them undamaged and in order. In certain instances, at the discretion of the Vice President for Administrative Services, a staff member must be present as the requester reviews the materials.

NEW SECTION

WAC 132H-169-110 Requests for Copies. A requester may choose to ask for a copy of the public record. In this case, the requester shall reimburse Bellevue Community College for the cost of reproducing the record before receiving the record. In certain instances, at the discretion of the Vice President for Administrative Services, the reproduction charge may be waived.

NEW SECTION

WAC 132H-169-120 No Obligation to Create Records. Public records are generally available for public review, except as exempted or limited under WAC 132H-169-070, but Bellevue Community College is under no obligation to gather data or organize information to create a record which does not exist at the time of the request.

NEW SECTION

WAC 132H-169-130 Sanctions. (1) If a person who has been given access to public records destroys, mutilates, or fails to return the records, or returns them in an unreasonably disorganized fashion, or uses them for commercial purposes, then the President may order that that person be denied further access to public records at Bellevue Community College. Any person wishing to contest such an order may request a hearing before the President or his/her designee concerning the charges.

(2) If a student or employee of Bellevue Community College destroys, mutilates, or fails to return the records, or returns them in an unreasonably disorganized fashion, or uses them for commercial purposes, then that student or employee may be denied further access to public records at Bellevue Community College and may also be subject to disciplinary proceedings under the student code of rights and responsibilities or under the relevant rules of the Community College District VIII concerning faculty and staff.