

Title 381 WAC

PRISON TERMS AND PAROLES, BOARD OF

Reviser's note: The following Rule 6.340 [Rule 6.370], has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but was filed in the office of the code reviser on October 20, 1983, and was published in Washington State Register 83-22-001. It is published in WAC exactly as filed.

Rule 6.340

[Rule 6.370] CONTINUANCES Any party to a parole revocation hearing, or their counsel, who desires a continuance shall, immediately upon receipt of Notice of Hearing, or as soon thereafter as circumstances requiring such continuance come to his knowledge, notify the Board and the other parties, or their counsel, in writing, stating in detail the reasons why such continuance is necessary. Requests for continuances shall arrive at the Board offices in Olympia not less than 72 hours prior to the scheduled hearing. The Board or Member thereof, in passing upon a request for continuance, shall consider whether such request was promptly and timely made for good cause and whether the parolee will be substantially prejudiced in the presentation of his or her defense. During a parole revocation hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the member or members conducting the hearing may, in their discretion or upon motion of counsel, continue the hearing and fix a date for the introduction of additional evidence or presentation or argument. Such oral notice shall constitute the final notice of such continued hearing.

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CHAPTER VIII

PUBLIC RECORDS – DISCLOSURE

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CHAPTER VIII

PUBLIC RECORDS – DISCLOSURE

8.010 PURPOSE The purpose of this chapter shall be to ensure compliance by the Washington State Board of Prison Terms and Paroles with the provisions of the Public Disclosure Act, RCW 42.17.250 through 42.17.340 in conjunction with the Criminal Records Privacy Act, Ch. 10.97 RCW, as well as RCW 9.95.140.

8.020 DEFINITIONS

- (1) "Public Records" include 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 Board regardless of physical form or characteristics.
- (2) "Writing" means handwriting, type-writing, printing, photostating, photographings, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.
- (3) "Board" means the Washington State Board of Prison Terms and Paroles.
- (4) "Client" means any person or organization about whom the Board has a record.
- (5) "Disclosure" means inspection and/or copying.

- (6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

8.030 PUBLIC RECORDS AVAILABLE Requests for any identifiable public record may be initiated at the central records keeping office of the Board during normal business hours.

The Board shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The Board's failure to respond shall entitle the person seeking disclosure to petition the public records officer pursuant to Rule 8.010.

8.040 PUBLIC RECORDS OFFICER The Board shall designate a public records officer, located in the central office, who shall be responsible for implementing the Board's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

8.050 REQUEST FOR PUBLIC RECORDS

- (1) All requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request may include:
 - (a) The name of the person requesting the record;
 - (b) The time of day and calendar date on which the request is made; and
 - (c) The nature of the request.
- (2) A request for disclosure shall be made during the customary business hours or by mail. Persons who appear at the Board's office for the purpose of inspection and copying of Board files are requested to make an appointment with the public disclosure coordinator at least five (5) days in advance, in order to allow sufficient time for the removal and deletion of exempted record information.
- (3) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law.

- (4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in Rule 8.011, the Board must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to Rule 8.090.

- (5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure, pursuant to Rule 8.090, may request a review under the provisions of Rule 8.010.

- (6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

- (7) Nothing in this section or elsewhere in this chapter shall be construed to require the Board to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the Board and is not required for litigation by rules of pretrial discovery.

- (8) If public records or information contained in a Board file are in the field for purposes of a hearing, and are thus not available, the public disclosure coordinator or his designee shall promptly inform the person requesting disclosure that there will be a delay in responding to the disclosure request due to the unavailability of the public record.

8.060

DISCLOSURE TO CLIENT'S REPRESENTATIVE

- (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must also include:
 - (a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

- (b) An identification of the record, or portion thereof, to be disclosed;
- (c) A statement of when the authorization for disclosure expires.
- (2) Disclosures of information to a representative shall be made to the same extent as to the client.
- (3) The legal guardian of a client has any and all rights accorded to a client by this section.

of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption applies. The remaining non-exempt materials shall be fully disclosed pursuant to Rule 8.012(1).

8.070

FEES – INSPECTION AND COPYING

- (1) No fee shall be charged for the inspection of public records.
- (2) The Board shall collect the following fees, plus postage, to reimburse itself for actual costs incident to providing copies of public records:
 - (a) Twenty cents per page.
- (3) Nothing contained in this section shall preclude the Board from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the Board.
- (4) Prepayment of copying costs and postage shall be a prerequisite to copying and/or mailing of public records.

8.080

PROTECTION OF PUBLIC RECORDS Public records shall be disclosed only in the presence of a public disclosure coordinator or his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the Board. This section shall not be construed to prevent the Board from accommodating a client by use of the mails in the disclosure process.

8.090

DISCLOSURE PROCEDURE

- (1) The public records officer shall review file materials prior to disclosure.
- (2) If the file does not contain materials exempt from disclosure, the public records officer shall ensure full disclosure.
- (3) If the file does contain materials exempt from disclosure, the public records officer shall deny disclosure

8.100

REMEDY FOR REVIEW OF DENIAL OF DISCLOSURE

- (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the Board's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.
- (2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the Board of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

8.110

EXEMPTIONS TO PUBLIC RECORDS DISCLOSURE

The board reserves the right to determine if a public record requested in accordance with the procedures outlined herein is exempt or nondisclosable under RCW 42.17.250 through RCW 42.17.340. Nondisclosable records include, but are not limited to:

- (1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by 42.17.310(1)(a); however, disclosure may be made to that person or that person's representative, except as otherwise provided by these rules;
- (2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other

- related files compiled by investigative, law enforcement or penology agencies, the state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or the protection of any person's right to privacy. This data is nondisclosable to the extent required by RCW 42.17.310(1)(d)(e), RCW 10.97-.080, Chapter 446–20 WAC;
- (3) Certain juvenile justice or juvenile care records to the extent required by Chapter 13.50 RCW;
- (4) Personal information in files maintained for an employee of the Board to the extent required by RCW 42.17.310(1)(b);
- (5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the Board in connection with any action to the extent required by RCW 42.17.310(1)(i);
- (6) Records which are relevant to a controversy to which the Board is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney–client communications between the Board and the office of the Attorney General privileged under RCW 5.60.060(2).
- (7) Non–conviction data, as defined in RCW 10.97.030(2), may be disclosed to the subject of the record in person in the central office of the Board but may not be copied except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. Incarcerated subjects shall be provided with a designation of documents in the Board file which contain non–conviction data concerning the subject, per RCW 10.97.080.
- 8.120 QUALIFICATIONS ON NONDISCLOSURE
- (1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.
- (2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).
- (3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court in accordance with the provisions of RCW 42.17.310(3).
- 8.130 INTERAGENCY DISCLOSURE
- (1) Unless prohibited by law, information may be disclosed by the Board to outside agencies, including other State of Washington agencies, or agencies of other states.
- (2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the Board.
- 8.140 RECORDS INDEX
- (1) The Board finds it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.
- (2) The Board will make available for public disclosure all indices which may at a future time be developed for agency use.