

Chapter 44-06 WAC

PUBLIC RECORDS

WAC

44-06-010	Purpose.
44-06-020	Definitions.
44-06-030	Function—Organization—Administrative offices.
44-06-040	Public records available.
44-06-050	Index.
44-06-060	Public records officer.
44-06-070	Hours for seeking public records.
44-06-080	Requests for public records.
44-06-085	Response to public records requests.
44-06-092	Copying fees—Payments.
44-06-100	Protection of public records.
44-06-110	Exemptions.
44-06-120	Review of denials of public records requests.
44-06-130	Consumer protection complaints.
44-06-140	Adoption of form.
44-06-150	Availability of pamphlet.
44-06-160	Requests for review.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

44-06-090	Copying fees [Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-090, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-090, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-090, filed 2/20/74.] Repealed by WSR 18-05-028, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.56.100, 42.56.-040 (1)(d), 42.56.120 (as amended by 2017 c 304), and 43.10.110.
-----------	--

WAC 44-06-010 Purpose. The purpose of this chapter is to provide rules for the Washington state attorney general's office, implementing the provisions of chapter 42.17 RCW relating to public records.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-010, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-010, filed 2/20/74.]

WAC 44-06-020 Definitions. (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) "Intra-agency memoranda" includes but is not limited to memoranda from one member of the attorney general's staff to another and memoranda by members of the attorney general's staff to the particular state client which they represent.

(3) "Consumer protection division" is the division of the attorney general's office which enforces chapter 19.86 RCW and other trade and business regulation and consumer protection statutes.

(4) "Lemon law administration" means the agency created to administer the New Motor Vehicles Warranty Act, chapter 19.118 RCW within the office of the attorney general.

(5) "Office" is the attorney general's office.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-020, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-020, filed 4/30/84; Order 102, § 44-06-020, filed 2/20/74.]

(2/9/18)

WAC 44-06-030 Function—Organization—Administrative offices. The attorney general's office is charged by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the attorney general's office issues attorney general opinions. The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1). Inquiries and correspondence concerning a matter where a specific assistant attorney general is identified as representing a specific agency should be directed to the specifically named assistant attorney general, if known; or the appropriate section of the office, if known.

Consumer protection complaints should be directed to the Consumer Protection Division, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012 or to local division offices located in Tacoma, Olympia, or Spokane. Communication concerning the New Motor Vehicles Warranty Act (the lemon law) should be directed to the Lemon Law Administration, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100.

In addition to the areas mentioned above, the office is divided into several divisions which provide legal advice to state agencies in particular subject matter areas. Because regional office addresses may change from time to time, current division addresses and telephone numbers should be obtained from the local telephone directory or you may obtain an organizational chart and the addresses and telephone numbers of the regional offices of the attorney general by requesting it from the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100, phone (206) 753-6200. Attorney general offices are located in other cities in the state and are denominated as regional offices.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-030, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-030, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-030, filed 4/30/84; Order 102, § 44-06-030, filed 2/20/74.]

WAC 44-06-040 Public records available. Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by chapter 42.17 RCW, any other law and these rules.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-040, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-040, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-040, filed 2/20/74.]

WAC 44-06-050 Index. The attorney general's office has indexed by subject matter the published opinions of the attorney general. An index is maintained in the law library, Olympia, Washington, indexing all published attorney general opinions, as described in WAC 44-06-030, by subject matter. Retrieval capability is maintained in the central office, Olympia, Washington, for cases which have been filed involving the state, giving the name, the county and the cause number.

The volume of correspondence received by the attorney general's office is such that it would be unduly burdensome to formulate and maintain an index for all such correspondence. In lieu of an index the following filing system is utilized.

(1) Consumer protection complaints received by the consumer protection division are filed by firm name of the subject of the complaint, or by the subject matter of the complaint if no specific firm is named.

(2) Records of the new motor vehicle arbitration board as well as the lemon law administration are filed in the Seattle office, Lemon Law Administrator, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-050, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-050, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-050, filed 4/30/84; Order 102, § 44-06-050, filed 2/20/74.]

WAC 44-06-060 Public records officer. (1) The public records officer for the attorney general's office shall be responsible for responses to requests for public records. Except as provided in subsections (2) and (3) of this section, all requests for public records shall be directed to Public Records Officer, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100.

(2) For those records maintained for lemon law administration for the New Motor Vehicles Warranty Act (chapter 19.118 RCW) the disclosure coordinator shall be located at the Office of Lemon Law Administration, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

(3) For those records maintained by the "business and fair practices division" aka consumer protection division (chapter 19.86 RCW), the disclosure coordinator shall be located at the Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-060, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-060, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-060, filed 4/30/84; Order 102, § 44-06-060, filed 2/20/74.]

WAC 44-06-070 Hours for seeking public records. Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-070, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-070, filed 2/20/74.]

[Ch. 44-06 WAC p. 2]

WAC 44-06-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing (or by fax or electronic mail if desired) upon a form prescribed by the office which shall be available at the offices where records are maintained. A request that is made other than upon the form prescribed by the office is permissible, but must provide the information listed in (a) through (f) of this subsection. The form shall be presented to the public records officer; or to a member of the staff designated by him or her, if the public records officer is not available, at the office during the office hours specified in WAC 44-06-070. The request shall include the following information:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within a current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to a current index maintained by the office, an appropriate description of the record requested.

(f) If the request is for a list of individuals, the requester shall certify that the request is not for commercial purposes except as provided in RCW 42.17.260(7).

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or designated staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) The requester may be required to provide additional information necessary to determine the application of an exemption or other law to the record(s) requested.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-080, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-080, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-080, filed 2/20/74.]

WAC 44-06-085 Response to public records requests.

(1) The office shall respond promptly to requests for disclosure. Within five business days of receiving a public record request, the office will respond by:

(a) Providing the record;

(b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or

(c) Denying the public record request. Agency responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld.

(2) Additional time for the office to respond to a request may be based upon the need to:

- (a) Clarify the intent of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons or agencies affected by the request; or
- (d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the office may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.

(4)(a) If the office does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

- (i) Consider the request denied; and
- (ii) Petition the public records officer under WAC 44-06-120.

(b) If the office responds within five working days acknowledging receipt of the request and providing an estimate of the time required to respond to the request, and the requester feels the amount of time stated is not reasonable, the person seeking disclosure shall be entitled to petition the public records officer for a review of the estimate of time. The procedures set out in WAC 44-06-120 shall apply to this review.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-085, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-085, filed 6/6/94, effective 7/7/94.]

WAC 44-06-092 Copying fees—Payments. (1) The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW.

(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

- (i) The office does not have the resources to conduct a study to determine all its actual copying costs;
- (ii) To conduct such a study would interfere with other essential agency functions; and
- (iii) Through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The office will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The office will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the office may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The office may enter into an alternative fee agreement with a requester under RCW 42.56.120(4). The charges for copying methods used by the office are summarized in the fee schedule available on the office's web site at www.atg.wa.gov.

(4) Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when:

- (i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or
- (ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requester of when payment is due.

(7) Payment should be made by check or money order to the attorney general's office. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The office will close a request when a requester fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

[Statutory Authority: RCW 42.56.100, 42.56.040 (1)(d), 42.56.120 (as amended by 2017 c 304), and 43.10.110. WSR 18-05-028, § 44-06-092, filed 2/9/18, effective 3/12/18.]

WAC 44-06-100 Protection of public records. The public records officer shall to the extent practicable insure that records requested are not removed from the premises nor portions thereof removed by members of the public.

[Order 102, § 44-06-100, filed 2/20/74.]

WAC 44-06-110 Exemptions. (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 44-06-080 is exempt under the provisions of RCW 42.17.310 or other law.

(2) Many of the records of the office are protected by the attorney-client privilege and/or the attorney work product doctrine. The office, in the course of representing agencies, may at times have materials or copies of materials from such agencies. A request for such records may be referred by the attorney general to the agencies whose records are being requested. The office may assert exemptions applicable to the agency or agencies which transmitted the material to the office.

(3) Pursuant to RCW 42.17.260, the office reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption

authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-110, filed 6/6/94, effective 7/7/94; Order 102, § 44-06-110, filed 2/20/74.]

WAC 44-06-120 Review of denials of public records requests. (1) Any person who objects to the office's denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the public records officer. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the attorney general or his or her designated deputy attorney general. The attorney general or his or her designee shall immediately consider the matter and either affirm or reverse such denial within two business days following the receipt of the written request for review of the denial of the public record.

(3) Administrative remedies shall not be considered exhausted until the attorney general or the designated deputy attorney general has returned the petition with a decision or until the close of the second business day following receipt of the written request for review of the denial of the public record, whichever occurs first.

(4) For purposes of WAC 44-06-160, the office shall have concluded a public record is exempt from disclosure only after the review conducted under this section has been completed.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-120, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-120, filed 4/30/84; Order 102, § 44-06-120, filed 2/20/74.]

WAC 44-06-130 Consumer protection complaints. Unless a complainant on a consumer protection matter specifically provides to the contrary, the consumer protection division is authorized when it deems it appropriate to forward a copy of the letter of complaint to the firm which is the subject of the complaint.

[Order 102, § 44-06-130, filed 2/20/74.]

WAC 44-06-140 Adoption of form. The attorney general's office hereby adopts use by all persons requesting inspection and/or copies of records of the form set out below, entitled "Request for public records."

Return to:

Public Records Officer
Office of the Attorney General
P.O. Box 40100
Olympia, Washington 98504-0100

OFFICE OF THE ATTORNEY GENERAL
REQUEST FOR PUBLIC RECORDS

Date Time

Name

Address

Phone number where you can be reached during day

Description of Records:
.....
.....
.....

If my request is for a list of individuals, I certify that the information obtained through this request will not be used for commercial purposes.

.....
Signature

Number of copies

Number of pages

Per page charge \$

Total charge \$

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-140, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-140, filed 6/6/94, effective 7/7/94. Statutory Authority: RCW 42.17.250 through 42.17.320. WSR 84-10-031 (Order 103), § 44-06-140, filed 4/30/84; Order 102, § 44-06-140, filed 2/20/74.]

WAC 44-06-150 Availability of pamphlet. The office has available a pamphlet, written in plain language, explaining the provisions of the Public Records Act. Requests for a copy of the pamphlet should be directed to the Public Records Officer, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100.

[Statutory Authority: RCW 43.10.110, chapters 42.17 and 34.05 RCW. WSR 98-01-013, § 44-06-150, filed 12/5/97, effective 1/5/98. Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-150, filed 6/6/94, effective 7/7/94.]

WAC 44-06-160 Requests for review. As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter." Requests for such review shall be directed to Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. The office will provide the person with a written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

[Statutory Authority: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW. WSR 94-13-039, § 44-06-160, filed 6/6/94, effective 7/7/94.]