

Chapter 467-02 WAC
PUBLIC ACCESS TO INFORMATION AND RECORDS

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| 467-02-010 | Purpose. |
| 467-02-020 | Definitions. |
| 467-02-030 | Exempted records. |
| 467-02-050 | Public records officer. |
| 467-02-070 | Requests for public records. |
| 467-02-080 | Availability for public inspection and copying of public records—Office hours. |
| 467-02-090 | Inspection and copying cost. |
| 467-02-110 | Denial of request. |
| 467-02-120 | Review of denials of public records requests. |
| 467-02-130 | Records index. |
| 467-02-140 | Availability. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 467-02-040 | Description of organization of Washington traffic safety commission. [Order 1, § 467-02-040, filed 4/11/77.] Repealed by WSR 91-23-101, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040. |
| 467-02-060 | Public records available. [Order 1, § 467-02-060, filed 4/11/77.] Repealed by WSR 91-23-101, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040. |
| 467-02-100 | Protection of public records. [Order 1, § 467-02-100, filed 4/11/77.] Repealed by WSR 91-23-101, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040. |

WAC 467-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington traffic safety commission with the provisions under chapter 42.56 RCW dealing with public records.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-010, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-010, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-010, filed 4/11/77.]

WAC 467-02-020 Definitions. (1) "Public record" includes 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 fiscal form or characteristic. This definition does not include records that are not otherwise required to be retained by the agency and are held by volunteers who:

(a) Do not serve in an administrative capacity;

(b) Have not been appointed by the agency to an agency board, commission, or internship; and

(c) Do not have a supervisory role or delegated agency authority.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films, prints, motion pictures, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilation from which information may be obtained or translated.

(3) "Commission" means the Washington traffic safety commission.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-020, filed 12/6/17, effective 1/6/18; Order 1, § 467-02-020, filed 4/11/77.]

WAC 467-02-030 Exempted records. In accordance with RCW 42.56.210, the following personal and other records shall be exempt from public inspection and copying:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probations or parolees.

(2) Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(7) Valuable formulae, designs, drawings computer source code or object code and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss (RCW 42.56.270(1)).

(8) Preliminary drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(9) Records which are relevant to a controversy to which an agency 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.

(10) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(11) The residential addresses and residential telephone numbers of the employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(12) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(13) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(14) Personal or financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for as required by RCW 42.56.230 and defined by RCW 9.35.005.

(15) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate person-

al privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-030, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-030, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-030, filed 4/11/77.]

WAC 467-02-050 Public records officer. The Washington traffic safety commission public records shall be managed by the public records officer for the commission. The person so designated shall be officed in the Washington Traffic Safety Commission Office, Olympia, Washington. The public records officer shall be responsible for implementation of the commission's rules and regulations regarding release of public records, coordinating staff efforts of the commission's rules and regulations regarding release of public records, and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-050, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-050, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-050, filed 4/11/77.]

WAC 467-02-070 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) The commission shall honor requests received in person during the commission's normal office hours, or by mail or email, unless exempted by provisions in this chapter. A request shall be addressed to the public records officer. Such request shall include the following in the public disclosure request:

(a) The name of the person requesting the record and their contact information.

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

(c) If the matter requested is referenced within the current index maintained by the Washington traffic safety commission, a reference to the requested record as it is described in such current index.

(d) If the requested matter is not identifiable by reference to the Washington traffic safety commission's current index, a statement that identifies the specific record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request within five business days of receiving a public record request by either:

(a) Providing the record;

(b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requestor notifies the agency that he or she cannot access the records through

the internet, then the agency must provide copies of the record or allow the requestor to view copies using an agency computer;

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

(d) Denying the public record request (RCW 42.56.520).

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the commission is also a party (or when such a request is made by or on behalf of an attorney for such a party) the request shall be referred to the assistant attorney general assigned to the commission for appropriate response.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-070, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-070, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-070, filed 4/11/77.]

WAC 467-02-080 Availability for public inspection and copying of public records—Office hours. Public records shall be available for inspection and copying during the normal business hours of the Washington traffic safety commission. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-080, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-080, filed 4/11/77.]

WAC 467-02-090 Inspection and copying cost. (1) No fee shall be charged for inspection of public records.

(2) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington traffic safety commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The Washington traffic safety commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-090, filed 12/6/17, effective 1/6/18; Order 1, § 467-02-090, filed 4/11/77.]

WAC 467-02-110 Denial of request. Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons 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. Such statement shall be sufficiently clear and complete to permit the director or his or her designee to review the denial in accordance with WAC 467-02-120.

[Order 1, § 467-02-110, filed 4/11/77.]

WAC 467-02-120 Review of denials of public records requests.

(1) Any person who objects to the denial of a request for a public record may petition the public records officer for prompt review of such decision by tendering a written request for review. 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) After receiving a written request for review of a decision denying a public record, if the public records officer determines to affirm the denial, such decision shall constitute final agency action. In any case, the request shall be returned with a final decision, within two business days following receipt of the petition for review.

(3) Administrative remedies shall not be considered exhausted until the public records officer has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-120, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-120, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-120, filed 4/11/77.]

WAC 467-02-130 Records index. (1) The commission has available to all persons at its offices in Olympia a current index which provides identifying information as to the following records issued, adopted or promulgated by the commission:

- (a) Minutes of commission meetings;
- (b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the commission;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Planning policies and goals, and interim and final planning decisions;
- (e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others.

(2) A system of indexing for identification and location of the following records is hereby established by the commission. Such records shall include the following:

- (a) Final orders entered after June 30, 1990, issued in adjudicative proceedings as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the agency in carrying out its duties.
- (b) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the agency in carrying out its duties.

(c) Interpretative statements as defined in RCW 34.05.010(8).

(d) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14).

(3) A system of indexing shall be as follows:

(a) The indexing system will be administered by the commission's rules coordinator and located at the Washington traffic safety commission.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The rules coordinator shall establish and maintain a separate index for each item contained in subsection (1)(a) through (e) of this section as follows:

(i) The index shall list all final orders and declaratory orders selected by the commission that contain decisions of substantial importance to the agency which orders shall be listed alphabetically by the titles of the hearing or controversy and shall contain a phrase describing the issue or issues and relevant citations of law.

(ii) Interpretative statements and policy statements shall be indexed by the applicable program administered by the commission.

(d) The rules coordinator shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the commission.

[Statutory Authority: RCW 43.59.070. WSR 17-24-123, § 467-02-130, filed 12/6/17, effective 1/6/18. Statutory Authority: RCW 43.59.040. WSR 91-23-101, § 467-02-130, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-130, filed 4/11/77.]

WAC 467-02-140 Availability. The current index promulgated by the commission shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 1, § 467-02-140, filed 4/11/77.]