Chapter 323-10 WAC
PUBLIC RECORDS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

323-10-090 Copying. [§ 323-10-090, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-100 Exemptions. [§ 323-10-100, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-110 Review of denials of public records requests. [§ 323-10-110, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-120 Protection of public records. [§ 323-10-120, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-130 Requests to the agency. [§ 323-10-130, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-140 Adoption of form. [§ 323-10-140, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-150 Index. [§ 323-10-150, filed 2/13/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

323-10-900 Appendix A—Request for public record—Form. [Form—Appendix A (codified as WAC 323-10-900), filed 2/13/74, effective 3/1/74.] Repealed by WSR 12-09-089, filed 4/18/12, effective 5/19/12. Statutory Authority: RCW 42.56.010 and 42.56.100.

WAC 323-10-010 Authority and purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to 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 agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the military department will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the military department and establish processes for both requestors and military department staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the act, the military department will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-010, filed 4/18/12, effective 5/19/12; § 323-10-010, filed 2/13/74.]

WAC 323-10-020 Agency description—Contact information—Public records officer. (1) The military department is the agency established by law pursuant to the provisions of Title 38 RCW. The headquarters building of the military department and its staff are located at: 1 Militia Drive, Building 1, Camp Murray, Washington, 98430.

(2) Any person wishing to request access to public records of the military department, or seeking assistance in making such a request should contact the public records officer of the military department:

Public Records Officer
Washington Military Department
Building 1
Camp Murray, WA 98430
Phone: 253-512-8110
E-mail: public.records@mil.wa.gov

Information and public records are also available at the military department web site at http://www.mil.wa.gov. Requestors are encouraged to view the information and documents available on the web site prior to contacting the records officer.

(3) The public records officer will oversee compliance with the act but another military department staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the military department will provide the fullest assistance to requestors, create and maintain for use by the public and military department officials an index to public records of the military department, protect public records from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the military department.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-020, filed 4/18/12, effective 5/19/12; § 323-10-020, filed 2/13/74.]

WAC 323-10-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying by appointment during normal business hours of the military department, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding legal holidays. Original records must be inspected at the offices of the military department. The military department will take reason-

able action to protect records from damage and disorganization during inspection. A requestor shall not take military department records from military department offices without the permission of the public records officer or designee.

(2) Records index and records available online. An index of public records is available for use by members of the public. The index, which also includes a list of laws other than those in chapter 42.56 RCW that exempt or prohibit disclosure of specific information or records, may be accessed online at http://www.mil.wa.gov. A variety of records is also available on the military department web site. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records of the military department should make the request in writing by letter, fax, or e-mail addressed to the public records officer or using the military department web site form located at: http://www.mil.wa.gov. Records requests should include the following information:

• Name of requestor;

• Address of requestor;

• Other contact information, including telephone number and e-mail address;

• Identification of the public records adequate for the public records officer or designee to locate the records; and

• The date and time of day of the request.

(b) If the requestor wishes to obtain photocopies or electronic versions of nonelectronic records instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records. A deposit may be required prior to the military department's collection of the records requested. Pursuant to WAC 323-10-070, photocopies will be provided at fifteen cents per page and scanned copies will be provided at six cents per page.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing. The department will presume that the request is fully and accurately described in this confirmation unless the requestor promptly indicates otherwise in writing.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-030, filed 4/18/12, effective 5/19/12; § 323-10-030, filed 2/13/74.]

WAC 323-10-040 Processing of public records requests—General. (1) Order of response. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies or scanned documents are requested and terms of payment are met, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available;

(d) Seek clarification of a request;

(e) Revise the estimate of when records will be available; or

(f) Deny the request.

(3) Failure to respond. If the military department does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) Seeking clarification of a request. The military department may seek clarification of a request that is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. If the requestor does not respond to the request for clarification within thirty days of the military department's request, the requestor's request will be deemed abandoned and may be closed by the military department.

(5) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(6) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the military department believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) Inspection of records.

(a) Consistent with other demands, the military department shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the military department notification to him or her that the records are available for inspection. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the military department may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(8) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(9) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the military department has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(11) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to clarify the request, inspect the records, or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the military department has closed the request.

(12) Later discovered documents. If, after the military department has informed the requestor that it has provided all available records, the military department becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-040, filed 4/18/12, effective 5/19/12; § 323-10-040, filed 2/13/74.]

WAC 323-10-050 Processing of public records requests—Electronic records. (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-050, filed 4/18/12, effective 5/19/12; § 323-10-050, filed 2/13/74.]

WAC 323-10-060 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. A list of statutes containing exemptions outside the Public Records Act that restrict availability of some documents held by the military department can be found in the military department public records index which is available online at http://www.mil.wa.gov or from the public records officer.

(2) The military department is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-060, filed 4/18/12, effective 5/19/12; § 323-10-060, filed 2/13/74.]

WAC 323-10-070 Costs of providing copies of public records. (1) Costs for paper copies. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page. Copies in color or larger-sized documents cost will be based on the actual cost to reproduce them at the time of the request.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The military department will not charge sales tax when it makes copies of public records.

(2) Costs for electronic records. The cost of electronic copies of records shall be free for information on a CD-ROM when the information already exists in electronic format and it only has to be copied to a CD. The cost of scanning existing office paper or other nonelectronic records is six cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

(3) Costs of mailing. The military department may also charge actual costs of mailing, including the cost of the shipping container.

(4) Payment. Payment may be made by cash, check, or money order to the military department.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-070, filed 4/18/12, effective 5/19/12; § 323-10-070, filed 2/13/74.]

WAC 323-10-080 Review of denials of public records. (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the special assistant to the director. The petition will be affirmed or reversed within five business days following the military department's receipt of the petition, or within such other time as the military department and the requestor mutually agree.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the military department denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 42.56.010 and 42.56.100. WSR 12-09-089, § 323-10-080, filed 4/18/12, effective 5/19/12; § 323-10-080, filed 2/13/74.]