

Chapter 504-45 WAC

PUBLIC RECORDS

WAC

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WAC 504-45-010 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 Washington State University will follow in order to provide full access to public records. Washington State University shall hereinafter be referred to as the "university." Where appropriate, the term university also refers to the staff and employees of Washington State University. These rules provide information to persons wishing to request access to public records of the university and establish processes for both requestors and university 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. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the university will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 28B.30.150. WSR 07-04-027, § 504-45-010, filed 1/29/07, effective 3/1/07.]

WAC 504-45-020 Agency description—Contact information—Public records officer. (1) Washington State University is an institution of higher education, authority for which is located in chapter 28B.30 RCW. The administrative offices of the university are located at the university's main campus at Pullman, Washington. Regional campuses are located in Spokane, Tri-Cities, and Vancouver, Washington. Agricultural research centers are located at Mt. Vernon, Prosser, Puyallup, Vancouver and Wenatchee, Washington. Cooperative extension offices are maintained in the county seats of all counties in the state. The university also has operations offices in Seattle and Olympia, Washington.

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(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request should contact the university's public records office located at the Pullman administrative offices. Current contact information and additional information regarding release of public records can be found on the university web site at <http://www.wsu.edu>.

(3) The public records officer will oversee compliance with the act but another university 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 university will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the university.

[Statutory Authority: RCW 28B.30.150. WSR 13-24-028, § 504-45-020, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-020, filed 1/29/07, effective 3/1/07.]

WAC 504-45-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the university. For the purposes of this chapter, the normal business hours for the public records office shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding the university's holidays and scheduled and emergency closure periods. Records must be inspected at the offices of the university.

(2) Index of records. An index of final orders, declaratory orders, interpretive statements, and policy statements entered after June 30, 1990, is available at the office of the university's rules coordinator at the Pullman campus. The university will post links to many of these records on its web site at <http://www.wsu.edu>.

(3) Organization of records. The university will maintain its records in a reasonably organized manner. The university will take reasonable actions to protect records from damage and disorganization. A requestor shall not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university web site at www.wsu.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university should make the request in writing on the university's request form, or by letter, fax, or e-mail addressed to the public records officer or designee. The following information must be included in the request:

- (i) Name of the person requesting records;
- (ii) Mailing address of requestor;

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(iii) Other contact information, including telephone number and any e-mail address;

(iv) Identification of the public records adequate for the public records officer or designee to locate the records; and

(v) The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies will be provided at a rate of no more than fifteen cents per page. The university may charge the current approved rate for scanned images of paper records if images are requested. A requestor may refer to the university web site at <http://www.wsu.edu> for current rates.

(c) A form is available for use by requestors at the public records office and on the university's web site at <http://www.wsu.edu>.

(d) 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.

[Statutory Authority: RCW 28B.30.150. WSR 13-24-028, § 504-45-030, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-030, filed 1/29/07, effective 3/1/07.]

WAC 504-45-040 Processing of public records requests—General. (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. 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 or designee will do one or more of the following:

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

(b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

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

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone, e-mail or mail. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Consequences of failure to respond. If the university 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 or designee to determine the reason for the failure to respond.

(4) 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 or designee 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.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer or designee 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 or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university 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 university to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. The university will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the university 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 university may close the request. 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.

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

(8) 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.

(9) 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 university has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or

final payment for the requested copies, the public records officer or designee will close the request and indicate to the requestor that the university has closed the request.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional responsible documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will make them available for inspection or provide copies upon payment on an expedited basis.

[Statutory Authority: RCW 28B.30.150. WSR 13-24-028, § 504-45-040, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-040, filed 1/29/07, effective 3/1/07.]

WAC 504-45-050 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 or designee 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.

(3) Customized access to data bases. With the consent of the requestor, the university may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The university may charge a fee consistent with RCW 43.41A.130 for such customized access.

[Statutory Authority: RCW 28B.30.150. WSR 13-24-028, § 504-45-050, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-050, filed 1/29/07, effective 3/1/07.]

WAC 504-45-060 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. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the university for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside the act. The university's failure to list an exemption here shall not affect the efficacy of any exemption.

- (a) RCW 5.60.060—Privileged communications;
- (b) 20 U.S.C. 1232g—Family Education Rights and Privacy Act (FERPA);
- (c) 42 U.S.C. 405 (c)(2)(vii)(1)—Social Security numbers;
- (d) 45 C.F.R. 16-0164—HIPAA Privacy Rule;
- (e) Chapter 19.108 RCW and RCW 4.24.601—Uniform Trade Secrets Act; and
- (f) RCW 10.97—Regarding criminal history information.

(2) The university is prohibited by statute from providing lists of individuals for commercial purposes.

[Statutory Authority: RCW 28B.30.150. WSR 07-04-027, § 504-45-060, filed 1/29/07, effective 3/1/07.]

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WAC 504-45-070 Costs of providing copies of public records. (1) Costs for copies of paper records. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page or scanned images at the current approved rate per image. Before beginning to make the copies or images, 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 university will not charge sales tax when it makes copies of public records. The university may charge actual costs for special arrangements necessary for providing copies of records when required by the requestor, e.g., costs of color copying.

(2) Costs of mailing. The university may also charge actual costs of mailing, including the cost of the shipping container.

(3) Payment. Payment may be made by cash, check or money order to the university.

[Statutory Authority: RCW 28B.30.150. WSR 13-24-028, § 504-45-070, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-070, filed 1/29/07, effective 3/1/07.]

WAC 504-45-080 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 will immediately consider the petition and either affirm or reverse such denial within two business days following the university's receipt of the petition, or within such other time as the university and the requestor mutually agree to.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university 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 28B.30.150. WSR 08-08-055, § 504-45-080, filed 3/27/08, effective 4/27/08; WSR 07-04-027, § 504-45-080, filed 1/29/07, effective 3/1/07.]