Chapter 192-15 WAC
PUBLIC DISCLOSURE AND PRIVACY OF INFORMATION

WAC 192-15-010 Purpose. The purpose of this chapter is to insure compliance by the employment security department with the provisions of RCW 42.17.250 through 42.17.320 concerning disclosure of public records, and to interpret and implement the provisions of chapter 50.13 RCW concerning the privacy and confidentiality of information or records held by the employment security department.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-010, filed 8/14/78.]

WAC 192-15-020 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 physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, 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.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-020, filed 8/14/78.]

WAC 192-15-030 Description of central and field organization of employment security department. (1) The employment security department is a public service agency. The administrative office of the employment security department and its staff are located at 212 Maple Park, Olympia, Washington 98504.

(2) The employment security department is headed by a commissioner appointed by the governor. Under the commissioner are an executive assistant, three deputy commissioners, and a limited number of special staff that report directly to him. There are also assistant attorneys general assigned to the department who provide legal services in all agency matters.

(a) Under the executive assistant to the commissioner are the public information office, the veterans services office, the legislative liaison, and the labor liaison.

(b) Under the deputy commissioner for field services are the personnel section, the reviewing officers, the monitor advocate, and the community organizations liaison.

(c) Under the deputy commissioner for resources and programs are employment and training (CETA), staff development, employment services, and unemployment insurance.

(d) Under the deputy commissioner for support services are the office of management and budget and the office of general administration.

(3) Job service centers and tax offices are located throughout the state and are headed by a manager.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-030, filed 8/14/78.]

WAC 192-15-040 Procedures for obtaining public records—Designation of departmental employees responsible for public records. (1) The public records of the employment security department shall be in the custody of the administrator, office of general administration, who will be responsible for implementing departmental regulations regarding the release of public records and for insuring compliance by departmental employees with chapters 50.13 and 42.17 RCW and chapter 192-15 WAC.

(2) The department shall appoint a responsible employee or employees in each job service center and tax office to handle requests for public records. In the central office, the records officer, and such agents as he appoints, shall handle such requests.

(a) The responsible departmental employees shall familiarize themselves with chapters 50.13 and 42.17 RCW, and chapter 192-15 WAC.

(b) All identifiable requests for public records shall be referred to these employees, except in cases of subpoenas which shall be handled as specified by WAC 192-15-070.

(3) Requests for public records may be made orally, except in the case of governmental agency requests for individual or employing unit records under RCW 50.13.060 which shall be handled as specified by WAC 192-15-060.

(a) If the responsible departmental employee is reasonably satisfied that the public record may be released under the provisions of chapters 42.17 and 50.13 RCW and these regulations, he may release it or provide access to the individual requesting it. If the employee is not satisfied that the requested information should be released, he shall refuse access to the public record.

(4/5/99) [Ch. 192-15 WAC p. 1]
(b) The departmental employee may consult with the department's records officer, or his agents, and/or any assistant attorney general for the department if he is unsure whether the public record should be released.

(4) Anyone refused access to public records held by the department who feels this refusal was improper may complete a request for public records form provided by the department at one of its offices.

(a) This form shall be published by the department's records officer and shall include a space for description of the records requested and for specification of reasons why the refusal of access was improper.

(b) The responsible departmental employee shall send the completed form to the department's records officer for consideration of the refusal.

(i) If the records officer, or his agents, decides that the public records may be disclosed under chapters 50.13 and 42.17 RCW and these regulations, he shall send the requested records to the appropriate departmental office or advise the date and place where the records will be available.

(ii) If the records officer, or his agents, decides that the public record cannot be disclosed or can only be partially disclosed under chapters 50.13 or 42.17 RCW and these regulations, he shall prepare a statement briefly explaining the reason that the record cannot be disclosed, including a statement of the specific statute prohibiting disclosure and an explanation of how the statute applies to the withheld record. This statement shall be forwarded to the proper job service center or tax office or to the person or agency requesting the records.

(iii) The records officer, or his agents, shall act as promptly as circumstances allow.

(5) In the event that the responsible departmental employee refuses access to records or information requested pursuant to RCW 50.13.050(1), the request form shall be sent to the appeal tribunal for handling by the examiner who is to hear the case in question. The examiner shall authorize the disclosure of the information or records if he deems them material to the proceeding. If the examiner does not deem the information or records material, he shall notify the interested party that they will not be disclosed and include an explanation of his action in his decision in the proceeding. After the decision of the appeal examiner and within the time limit provided in RCW 50.32.070, the interested party may petition the commissioner for a new hearing or the reopening of a hearing if the refusal to disclose was improper and prejudiced the presentation of the party's case. This procedure for review by the commissioner shall be in lieu of the procedure provided in WAC 192-15-050.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-050, filed 8/14/78.]

WAC 192-15-050 Commissioner's review of denials of public records requests. (1) Any person who objects to the written 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 records officer, or other staff member denying the request. The written request shall specifically refer to the written statement by the records officer, or other staff member, which constituted or accompanied the written denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the records officer, or other staff member denying the request, shall refer it to the commissioner of the employment security department. The commissioner shall immediately consider the matter and either affirm or reverse such written denial. In any case, the request shall be returned within a final decision, within two business days following the original written denial.

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

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-050, filed 8/14/78.]

WAC 192-15-060 Access to individual or employing unit records or information by government agencies—RCW 50.13.060. (1) Applications by government agencies for information or records deemed private and confidential by chapter 50.13 RCW shall be made to the responsible departmental employees specified in WAC 192-15-040. The applications shall be in writing on forms provided by the department.

(a) If the departmental employee is reasonably satisfied that the application meets the requirements of RCW 50.13.060, the government agency may have access to the information or records.

(b) If the departmental employee is not reasonably satisfied that the application meets the requirements of RCW 50.13.060 and refuses access, the agency may attach its application to the form specified by WAC 192-15-040(4) and obtain review of the refusal in the manner outlined in WAC 192-15-040 and 192-15-050.

(2) In the event of a refusal by a responsible departmental employee to release records or information under RCW 50.13.060(3), the government agency can immediately contact the commissioner for appeal.

(3) RCW 50.13.060(5) shall be interpreted to permit establishment of routine procedures for detection of fraud by claimants under the various social programs administered by government agencies. This statute permits access only to information needed to identify individuals improperly claiming under different programs. Further investigation of employment security department files concerning these individuals may be accomplished only if the normal requirements of RCW 50.13.060 are met.

(4) The term "other official of the agency" as used in RCW 50.13.060 (1)(b) means an employee who has substantial responsibility for the operation of the requesting agency or for one or more of its programs or administrative units.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-060, filed 8/14/78.]

WAC 192-15-070 Response to subpoenas—RCW 50.13.070. An employee called to testify in a judicial or administrative proceeding shall not disclose information or records deemed private and confidential under chapter 50.13 RCW, unless the presiding officer makes a finding that the need for the disclosure outweighs any reasons for the privacy and confidentiality of the records or information, or unless

[Ch. 192-15 WAC p. 2] (4/5/99)
the employee is responding to a subpoena containing such a
finding.

An employee receiving a subpoena should notify one of the
responsible departmental employees who has been design-
ated to handle requests for public records pursuant to WAC
192-15-040. This latter employee should make arrangements
for the appropriate response to the subpoena, including atten-
dance of the proper employee before the tribunal. The depart-
mental employee may contact the records officer for guid-
ance.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-070, filed 8/14/78.]

WAC 192-15-080 Access to public records for opera-
tion and management purposes—RCW 50.13.080. RCW
50.13.080 shall be interpreted to permit incidental access to
private or confidential information and records by private
parties who are assisting the department in such areas as data
processing and collection of employment security contribu-
tions. These parties are bound by the rules of confidentiality
and privacy applicable to departmental employees and their
activities will be monitored by the department to insure that
private and confidential information or records are being han-
dled correctly.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-080, filed 8/14/78.]

WAC 192-15-090 Consent to release of records or
information—RCW 50.13.100. RCW
50.13.100, concerning consent to release of information or records deemed pri-
vate and confidential, shall be liberally interpreted so that
the department may release information or records to third par-
ties who have been able to supply the department with rea-
sonable written or oral assurances of their identity and that
they are acting with the approval of the individual or employing
unit whose records are involved. In cases where a certain
record contains information about more than one individual
or employing unit, all individuals or employing units con-
cerned must give their consent before a record may be
released or disclosed to other than the individuals or employ-
ing units.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-090, filed 8/14/78.]

WAC 192-15-100 Disclosure related to employment
security programs. Chapter 50.13 RCW shall not be inter-
preted to prevent the employment security department from:

(1) Disclosing information in carrying out the depart-
ment's duties under Title 50 RCW or under any other pro-
gram for which the department is responsible; or

(2) Disclosing information to the employment security
agencies of other states when such disclosure relates to the
administration of the employment security law of the request-
ing state; or

(3) Disclosing information to the Internal Revenue Ser-
vice when such disclosure relates to the Federal Unemp-
loyment Tax Act.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 195-
15-100 (codified as WAC 192-15-100), filed 8/14/78.]

WAC 192-15-110 Public records available. All public
records of the employment security department, as defined in
WAC 192-15-020 shall be available for public inspection and
copying pursuant to these rules, except as otherwise provided
by RCW 42.17.310.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-110, filed 8/14/78.]

WAC 192-15-120 Office hours. Public records shall be
available for inspection and copying during the customary
office hours of the employment security department. For the
purposes of this chapter, the customary office hours shall be
from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m.,
Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-120, filed 8/14/78.]

WAC 192-15-130 Copying. No fee shall be charged for
the inspection of public records. The employment security
department shall charge an established amount per page of
copy for providing copies of public records and for use of the
employment security department copy equipment. This
charge is the amount necessary to reimburse the employment
security department for its actual costs incident to such copy-
ing.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-130, filed 8/14/78.]

WAC 192-15-140 Protection of public records. When
a public record is turned over for inspection or copying, a
place will be provided so that adequate surveillance may be
made to prevent damage, disorganization, and loss of such
records. At no time shall the original record be transported
from one area to another without a member of the agency
staff being present.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-
15-140, filed 8/14/78.]

WAC 192-15-150 Records index—Available mate-
rial. The department finds that it would be unduly burden-
some and would interfere with agency operations to main-
tain an index of records as specified in RCW 42.17.260(2),
because of the complexity and diversity of its operations and
the resulting volume of correspondence[,] reports, survey,
staff studies and other materials. The department will make
available for public inspection and copying all indexes which
may at a future time be developed for agency use.

The following records shall be available for inspection
and copying through the office of the public records officer
and, in addition, those marked with an asterisk (*) shall be
available for inspection through the department's local
employment centers.

(1) Laws relating to employment security.*
(2) Employment security department rules* Title 192
WAC.
(3) Digest commissioner's decisions.*
(4) Unemployment insurance tax administration audit
manual.
(5) Tax branch policy manual.
(6) Benefit policy guide.*
(7) Unemployment insurance procedures manual.

[Ch. 192-15 WAC p. 3]


(8) Inventory of equipment.


Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 192-15-160 Responsible addressee. All communications with the employment security department including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the employment security department's decisions and other matters, shall be addressed as follows: Employment Security Department, Attention: Administrator, Office of General Administration, Olympia, Washington 98504.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-160, filed 8/14/78.]

WAC 192-15-170 Forms. The employment security department will provide forms for use by all persons requesting inspection and/or copying or copies of its records.

[Statutory Authority: RCW 50.13.030. WSR 78-09-027 (Order 1-78), § 192-15-170, filed 8/14/78.]