

Chapter 200-01 WAC

PUBLIC RECORDS

NEW SECTION

WAC 200-01-010 Purpose. The purpose of this chapter is to provide rules for the department of enterprise services to implement the provisions of chapter 42.56 RCW relating to public records and to ensure compliance with that chapter.

NEW SECTION

WAC 200-01-015 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter. In addition, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Days" means calendar days unless otherwise stated.

(2) "DES" or "department" means the department of enterprise services established in chapter 43, Laws of 2011. Where appropriate, DES or agency also refers to the staff and employees of the department of enterprise services.

(3) "Director" means the director of the department of enterprise services.

(4) "Page" means one impression on a single side of a sheet of paper. It also applies to one electronic image of one side of a sheet of paper.

(5) "Public records officer" means the public records officer or designee for the department of enterprise services appointed by the director.

NEW SECTION

WAC 200-01-020 Description of the department of enterprise services. The department, created in chapter 43, Laws of 2011, provides centralized leadership in efficiently and cost-effectively managing resources necessary to support the delivery of state government services. The department is an administrative, service and regulatory state agency. The administrative office of the department and its staff are located at 1500 Jefferson Ave., Olympia, Washington 98504.

NEW SECTION

WAC 200-01-025 Organizations, operations, and procedures. The department will provide centralized services to diverse customer groups. DES includes the following divisions, which are responsible for the services set forth below:

(1) IT systems and services. This division assists agency purchases of hardware and software, provides agency IT support, designs system integration and public facing web sites, and, in addition, maintains statewide payroll and financial systems and our network infrastructure.

(2) Services division. This division provides essential services to state agencies, including motor pool, printer, mail and surplus services.

(3) Facilities. This division locates, builds, and maintains office space, including the buildings and grounds on the capitol campus.

(4) Personnel services. This division supports state agencies and state workers by providing training, employee assistance, job seeker support and recruitment services.

(5) Contracts and legal affairs. This division supports agency and government partners in purchasing, and provides claims management and tort resolution through its risk management services.

(6) Policy planning and performance. This division assists the department in optimizing current functions to become more efficient and effective, while planning the department's future development.

(7) Government and stakeholder relations. This division represents the department in the legislature, builds strong customer relations, and supports the department in coordinating with its stakeholder groups on complex issues.

NEW SECTION

WAC 200-01-030 Public records officer. (1) The public records officer is appointed by the director and is located in the contracts and legal affairs division of the department.

(2) The public records officer is in charge of the department's public records program. The public records officer is responsible for the implementation of the department's rules regarding the release of public records for inspection and copying, coordinating the department staff in this regard, and overseeing compliance with the Public Records Act requirements in chapter 42.56 RCW.

(3) The public records officer may choose a designee to act in his or her place to carry out the responsibilities in this chapter, including processing and responding to public records requests. The department's public records officer will provide the fullest assistance to requestors.

NEW SECTION

WAC 200-01-035 Availability of records. Public records are available for inspection and the preparation of requested copying during the department's normal business hours. For the purposes of this chapter, normal business hours of DES are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. Records must be inspected at the main office of the department or other agency location as applicable.

NEW SECTION

WAC 200-01-040 Processing of public records requests--Request. (1) Any person wishing to inspect or copy public records of DES may submit the request in writing using the department's request form, or by letter, fax, or e-mail addressed to the public records officer. The request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer to locate the records; and
- The date and time of day of the request.

(2) If the requestor wishes to have copies of the records made

instead of inspecting them, he or she should so indicate. Costs will be assessed in compliance with WAC 200-01-075.

(3) A request form is available for use by requestors at the office of the public records officer and on-line at <http://www.des.wa.gov>.

(4) The public records officer may accept public records requests by telephone or in person; however, the requesting party may be asked to reduce the request to writing. In the alternative, the public records officer may confirm receipt of the request and restate the substance of the request in writing.

NEW SECTION

WAC 200-01-045 Processing of public records requests--

Response. (1) 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 are requested and payment of a deposit 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; or

(d) If the request is unclear or does not sufficiently identify the requested records, obtain clarification from the requestor. Such clarification may be obtained and provided by telephone. The public records officer may then revise the estimate of when records will be available; or

(e) Deny the request.

(2) 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 pursuant to RCW 42.56.540. The notice to the affected persons will include a copy of the request.

(3) Some records are exempt from disclosure, in whole or in part. If DES believes that an entire record is exempt from disclosure and should be withheld, the public records officer will identify the record, 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, the public records officer will redact the exempt portions, provide the nonexempt portions, state the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.

(4) 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 will close the request and indicate to the requestor that DES has closed the request.

NEW SECTION

WAC 200-01-050 Inspection of public records. (1) Consistent with other demands, DES will 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.

(2) After inspection is complete, the requestor shall identify which documents he or she wishes the agency to copy. Consistent with other demands and the volume of documents requested, DES may copy the document at that time or provide the copies to the requestor at a later date.

(3) Within thirty days of the department's notification that the records are available for inspection or copying, the requestor must claim or review the assembled records. 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 department may close the request and refile the assembled records. If the requestor makes a request for the same records, it will be processed as a new request.

(4) When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that DES has completed its search for the requested records and made any nonexempt records available for inspection.

NEW SECTION

WAC 200-01-055 Protection of public records. (1) The department will maintain its records in a reasonably organized manner. The department will take reasonable actions to protect records from damage and disorganization. A requestor shall not take DES records from DES offices without the permission of the public records officer. A variety of records is available on the DES web site at (web site address). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(2) Records will be made available to the requestor subject to the following restrictions:

(a) The records may not be removed from the area designated.

(b) The quantity of records may be limited in accordance with the requested use.

(c) All possible care will be taken by the requestor to prevent damage to the records.

(d) Records may not be marked, altered, cut or mutilated in any way.

(e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited.

(f) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file.

(g) Records must be kept in the order in which received.

(h) All copying of records will be done by departmental personnel.

(i) Records will be returned to the public records officer by the requestor when no longer required and no later than the end of the customary office hours as set forth in WAC 200-01-035.

NEW SECTION

WAC 200-01-060 Response to public records request--Installments. (1) When a response to a public records request is complex or involves a large number of records, the public records officer may provide access for inspection and copying in installments pursuant to RCW 42.56.080.

(2) The requestor will be notified when an installment is ready for inspection. 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 may close the request.

(3) When the request is for copies of public records, the public records officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to ten percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost within thirty days, the public records officer may close the request.

NEW SECTION

WAC 200-01-065 Processing public records requests--Electronic records. (1) The process for requesting electronic public records is the same as for requesting paper public records.

(2) When a requestor requests records in an electronic format, the public records officer will provide available nonexempt electronic public 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, or as otherwise agreed to between the requestor and the public disclosure officer.

(3) Whenever possible, DES will provide records in electronic format. If the department has only a paper copy of the record, the department, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor. If the department maintains the record in electronic format, the record will be provided in the maintained electronic format unless the requestor specifically asks to receive the record in paper copies or it is otherwise not feasible to provide the record in electronic format.

(4) If a record exists on a web page, DES will respond to a request for the record by providing the link to the record on the web page.

(5) DES is not required to create a record that does not otherwise exist.

(6) Costs for providing electronic records as provided in this section are governed by WAC 200-01-075.

NEW SECTION

WAC 200-01-070 Exemptions. (1) DES reserves the right to determine that a public record requested is exempt, in whole or in part, under the provisions of chapter 42.56 RCW or other applicable provision of law.

(2) In addition, there are exemptions outside the Public Records Act that restrict the availability of some documents held by DES for inspection and copying; to include, but not limited to, RCW 4.92.210 (information in a claim filed with the office of risk management) and RCW 5.60.060 (attorney-client privilege).

(3) In addition, DES reserves the right to delete identifying details when it makes available any public record in cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.56 RCW.

(4) The department is prohibited by statute from disclosing lists of individuals for commercial purposes pursuant to RCW 42.56.070(9).

NEW SECTION

WAC 200-01-075 Costs of providing public records. (1) There is no fee for inspecting public records. DES may impose a charge for providing public records. DES will maintain a fee schedule on its web site.

(2) The charge for providing public records may be the actual cost incident to providing the records.

(a) The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.

(b) There will be no charge for e-mailing electronic records to a requestor, unless another cost applies.

(3) If determining the actual cost is too burdensome or if the cost cannot be determined, DES may charge fifteen cents for each page, however produced.

(4) Before beginning to copy public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;

(b) The payment of the remainder of the copying costs before providing all the records; or

(c) The payment of the costs of copying an installment before providing that installment. The department will not charge sales tax when it makes copies of public records.

(5) Payment may be made by cash in the exact amount charged, check, or money order to the department of enterprise services.

NEW SECTION

WAC 200-01-080 Review of denials of public records. (1)(a) Any person who has been denied an opportunity to inspect or copy a public record by an agency or who believes that an agency has not made a reasonable estimate of the time required to respond to a public record request may petition the agency for prompt review of its decision.

(b) The petition shall be in writing and shall include a copy of, or reasonably identify, the written statement by the public records officer denying the request or providing the estimate.

(c) The petition shall be sent to the public records officer who shall promptly provide the petition and any other relevant information to the agency official designated by the agency to conduct the review.

(2) The designated agency official will immediately consider the petition and either affirm or reverse the denial or the estimate. This review will be complete within two business days following DES' receipt of the petition, or within such times as

mutually agreed by DES and the requestor.

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

(4) 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.

NEW SECTION

WAC 200-01-085 Records index. (1) The state general records retention schedule and the department's unique records retention schedule, as established and approved by the state records committee, serve as the index for the identification and location of the department's records, including those described in RCW 42.56.070(5).

(2) The current index, as described in subsection (1) of this section, is available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. The index can be found on the DES web site at <http://www.des.wa.gov>.

NEW SECTION

WAC 200-01-090 Communications with the agency. All communications with DES to access public records of the department or seek assistance in making such a request, or for the purpose of obtaining information, making submittals or requests, or making inquiries concerning the agency's rules for compliance with chapter 42.56 RCW shall be addressed as follows:

Department of Enterprise Services
Public Records Officer
1500 Jefferson Ave.
P.O. Box 42445
Olympia, WA 98504-2445

The telephone number of the public records officer is 360-407-8768, or you can e-mail your request to publicdisclosure@des.wa.gov.

Information is also available at the DES web site at <http://www.des.wa.gov>.