


OBTAINING PUBLIC RECORDS

A CITIZENS' RIGHTS PUBLICATION



The people of this state do not yield their sovereignty to the agencies that serve them.... The people insist on remaining informed so that they may maintain control over the instruments that they have created.

-RCW 42.56.030

Purpose

This pamphlet is produced to assist you in understanding Washington law governing access to public records, and obtaining those records. This pamphlet is a guide; it is not a legal document.

This state's basic law regarding inspection and copying of public records is in the Public Records Act (Act), RCW 42.56. The Act establishes a strong state policy for disclosure of public records. But there are some exemptions and limitations, too. This pamphlet gives you an overview of your right to access public records. If you desire more specific information, you should refer to the Act itself. The Act and other state laws and rules can be found at the website for the Washington State Legislature at www.leg.wa.gov.

What Records Are Public?

A public record is any state or local record relating to the conduct of government or the performance of a governmental function, and which is prepared, used, or retained by any state or local agency. A local agency can include a city, county, district, or similar governmental entity. The record may be in a variety of forms such as a writing, a recording, a picture, an email, etc.

What Public Records Are Available for Inspection?

All records maintained by state and local agencies are available for public inspection unless the law specifically exempts them. You are entitled to access public records under reasonable conditions, and to copies of those records upon paying the costs of making the

copy. In most cases, you do not have to explain why you want the records. However, specific information may be necessary to process your request. An agency may require information necessary to establish if disclosure would violate certain provisions of law.

Exempt Records

While the strong policy of the state is for disclosure of public records, state law does allow for some information to be withheld. These "exemptions" are listed in the Public Records Act (RCW 42.56). Other exemptions are found elsewhere in Washington law, and in federal law.

Many of the exemptions are designed to protect the privacy rights of other individuals.

Other exemptions are designed to protect the investigative functions of law enforcement and other agencies with investigative responsibilities, as well as the legitimate business interests of other citizens.

You should refer to the Public Records Act for specific exemptions. You may also wish to consult with an agency's records officer.

Just because part of a record may be exempt does not mean the entire record can be withheld. In those cases, the agency has the obligation to black out or otherwise remove the information it believes is exempt from disclosure and provide you the rest.

If you are denied access to a public record or part of a public record, the agency must identify the specific exemption or other law it believes justifies its denial and explain how that exemption applies to your request.

Agency Not Required to Create Records

While, in general, an agency must provide access to existing public records in its possession, an agency is not required to collect information or create a record not existing at the time of the request. The more precisely you identify the record you seek, the more responsive the agency can be.

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How to Request Records

A request for public records can be initiated in person, by mail, e-mail, fax, or over the telephone. You may be able to obtain the addresses and telephone numbers of state agencies in current telephone directories, or the telephone number of an agency by calling the Olympia area information operator at 360-753-5000 or outside Olympia 1-800-321-2808. Contact information for state agencies may be found on the Access Washington website at www.access.wa.gov. Each state and local agency is required to provide assistance to citizens in obtaining public records and to explain how the agency's public records process works. If you request certain public records, the agency must make them available to you for inspection or copying (unless they are exempt from disclosure) during customary office hours of that agency. You should make your request as specific as you can. A written request is preferable – it helps to identify specific records you wish to inspect. Many agencies have a public records request form they may ask you to use.

After your inspection of records, you may identify those records you desire and, if copying does not disrupt agency operations, copies can be promptly made for you. The agency may enact reasonable rules to protect records from damage or disorganization and to prevent disruption of agency operations.

There are requirements for state and local agencies to establish an index as an aid to locating public records, with certain exceptions. The index is to be published and made available to those who request it.

Agency Response to a Request

Agencies are required to respond promptly to your request. Within five business days after receiving a request, the agency must either:

1. Provide the record(s);
2. Provide an internet address and link to the record(s) on the agency's website;
3. Acknowledge your request and give you a reasonable estimate of how long it will take to respond;
4. Acknowledge the request and seek clarification to the greatest extent possible, and provide an estimate of time to respond if not clarified; or,
5. Deny the request in writing, with reasons for the denial (this could also include a denial of part of your request and granting of the remainder). The agency must tell you the specific exemption or other law it relies upon for its denial.



If a request is not clear, the agency may ask you for further clarification.

If an agency denies your request, you may ask the agency to conduct an internal review of its denial. However, the agency's decision to deny a request is deemed final two business days after the denial for purposes of judicial review.

Fees

There is no fee for inspecting public records, but the agency may charge a fee for providing copies of public records. See the agency's fee schedule for details.

Agency May Notify Affected Persons and May Seek Court Protection

The agency may notify persons to whom the record pertains that release of the record has been requested. The agency, or a person to whom the record applies, may ask a court to prevent an inspection of the record. If a court order preventing disclosure is sought, the records request is on hold until further order of the court.

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For more information, visit our web site at www.atg.wa.gov/open-government or call 360-753-6200

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Your Option if a Request is Denied

Court Review. If either a state or local agency denies your request to inspect or copy a record, you may file a lawsuit in Superior Court in the county where the agency record is located (or, for a case against a county, in the adjoining county) to require the agency to release the record. Likewise, if there is unreasonable delay by the agency, or unreasonable estimate of copying costs, you may bring a similar court action.

The burden is on the agency to establish that its denial of inspection is proper, or its estimate of time or costs, is reasonable. If you are successful in reversing the agency denial, the court will require the agency to pay costs and reasonable attorney fees incurred in the court action, and may award you an amount of up to \$100 a day for each day that access to the records was denied.

A court action must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

Attorney General Review. If a state agency (but not a local agency) denies your request to inspect or copy all or part of a record, you may request Office of Attorney General review. Direct your written request for Attorney General review, along with a copy of your initial request, agency's response, request for internal review, and agency's final response to:

**Office of the Attorney General
Public Records Review
P.O. Box 40100
Olympia, WA 98504-0100**

Or email: publicrecords@atg.wa.gov

The Office of Attorney General will independently review your request and the agency's denial, and provide you with a written opinion as to whether the record you requested is exempt from disclosure. This review by the Attorney General is not binding on the agency or upon you.

The Attorney General review and response will be conducted as promptly as possible. The Office of Attorney General may have to contact you or the state agency to get more information before completing the review. The specific timeframe will vary depending upon the complexity of the issues involved, the need to obtain information from the requestor or the agency, and the volume of requests received.

The Attorney General review process does not apply to denials of requests by local agencies. *A Guide to Reviews of State Agency Denials of Public Records* is available on the office's website. Submit a request to the Public Records Review address listed.

Model Rules for Public Records Compliance

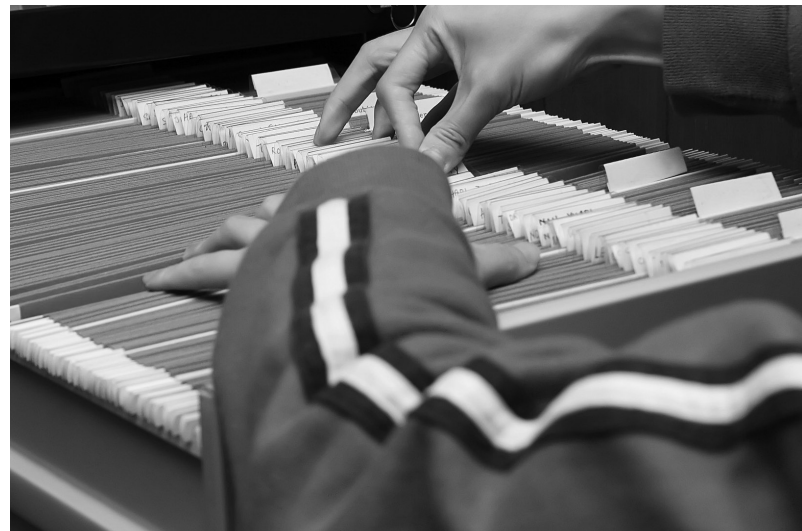
The Attorney General adopted non-binding advisory model rules on public records compliance covering many of the most common issues relating to public records. The model rules are available at www.atg.wa.gov/model-rules-public-disclosure.

Public Records Ombuds

The Attorney General provides informal ombuds assistance to members of the public who are having difficulty obtaining public records. The public records ombuds is not your attorney, but will try to assist you. You can contact the public records ombuds by sending an email to publicrecords@atg.wa.gov or by calling (360) 753-6200.

Conclusion

Washington law makes public records accessible to the people, with some limitations. If you desire to access public records, the procedure described above is quite simple. In order to permit a prompt and adequate response, try to make your request as specific as possible. Remember, if you want to review the law on public records in detail, consult RCW 42.56. If you have any comments about this pamphlet, please write the Attorney General at the address listed.



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