

1 (b) Inform the public of the procedures used by the
2 department for requesting, producing, and disclosing public
3 records.

4
5 NEW SECTION

6
7 **WAC 192-02-020 Definitions.** (1) "Public record" includes
8 any writing containing information relating to the conduct of
9 government or the performance of any governmental or proprietary
10 function prepared, owned, used, or retained by the department
11 regardless of physical form or characteristics.

12 (2) "Writing" is defined broadly, regardless of physical
13 form or characteristics, as:

14 (a) Handwriting;

15 (b) Typewriting;

16 (c) Printing;

17 (d) Photostating;

18 (e) Photographing; and

19 (f) Every means of recording any form of communication or
20 representation, including but not limited to:

21 (i) Letters;

22 (ii) Words;

23 (iii) Pictures;

24 (iv) Sounds or symbols, or a combination thereof;

25 (v) All papers, maps, and magnetic or paper tapes;

26 (vi) Photographic films and prints;

27 (vii) Motion pictures, films, and video recordings;

28 (viii) Magnetic or punched cards;

29 (ix) Discs, drums, and diskettes;

30 (x) Sound recordings;

31 (xi) Emails, texts, and social media postings and
32 databases; and

1 (xii) Other documents including existing data compilations
2 from which information may be obtained or translated.

3 (3) "Public records officer" means the public records
4 officer of the employment security department or the designee of
5 the public records officer.

6
7 NEW SECTION

8
9 **WAC 192-02-030 Availability of public records.** (1) Public
10 records are available for inspection and copying during normal
11 business hours of the department, as listed on the department's
12 website.

13 (2) Records must be inspected at the offices of the
14 department.

15 (3) Many public records are available for inspection and
16 copying on the department's website at any time, at no cost.

17
18 NEW SECTION

19
20 **WAC 192-02-040 Records index.** (1) The department finds
21 that maintaining an index is unduly burdensome and would
22 interfere with agency operations.

23 (2) Maintaining an index unduly burdens and interferes with
24 the department's operations since there is no single index of
25 department records, which are stored in multiple locations, and
26 are frequently modified.

27
28 NEW SECTION

29
30 **WAC 192-02-050 Purpose of requests.** (1) If a request is
31 for a list of individuals, the department may:

1 (a) Ask the requestor if records are intended for a
2 commercial purpose; and

3 (b) Require the requestor to provide information about the
4 purpose of the use of the list.

5 (2) The department should specify on its request form that
6 the department is not authorized to provide public records
7 consisting of a list of individuals for a commercial use under
8 RCW 42.56.070(8).

9

10 NEW SECTION

11

12 **WAC 192-02-060 Making a request for public records.**

13 (1) To request access to public records of the department,
14 or seek assistance in making such a request, contact the public
15 records officer at:

16 Public Records Officer

17 P.O. Box 9046

18 Olympia, WA 98507-9046

19 Phone: 1-844-766-8930

20 Email: recordsdisclosure@esd.wa.gov

21 (2) Any person wishing to inspect or copy public records of
22 the department shall make the request in writing to the public
23 records officer through one of the following:

24 (a) On the department's request form;

25 (b) Through an online portal designated by the department
26 for this purpose;

27 (c) By letter mailed to the address listed in WAC 192-02-
28 060(1);

29 (d) By email sent to the to the address listed in WAC 192-
30 02-060(1); or

31 (e) By submitting the request in person at the address
32 provided on the department's website.

- 1 (3) Public records request should include:
2 (a) The name of requestor;
3 (b) The address of requestor;
4 (c) Other contact information, including telephone number
5 and any email address;
6 (d) Identification of the public records adequate for the
7 public records officer to locate the records; and
8 (e) The date and time of day of the request.

9 (4) If the requestor wishes to have copies of the records
10 made instead of simply inspecting them, the requestor should so
11 indicate and make arrangements to pay for copies of the records
12 or a deposit.

13 (5) A records request form is available for use by
14 requestors at the office of the public records officer and
15 online at the department's website.

16 (6) If requestors refuse to identify themselves or provide
17 sufficient contact information, the department will respond to
18 the extent feasible and consistent with the law.

19

20 NEW SECTION

21

22 **WAC 192-02-070 Records exempt from disclosure.** (1) Some
23 records are exempt from disclosure, in whole or in part.

24 (2) If the department believes that a record is exempt from
25 disclosure and should be withheld, the public records officer
26 will provide:

27 (a) The specific exemption; and

28 (b) A written explanation of why the record or a portion of
29 the record is being withheld.

30 (3) If only a portion of a record is exempt from
31 disclosure, but the remainder is not exempt, the public records
32 officer will:

- 1 (a) Redact the exempt portions;
2 (b) Provide the nonexempt portions; and
3 (c) Indicate to the requestor in writing why portions of
4 the record are being redacted.

5
6 NEW SECTION

7
8 **WAC 192-02-080 Closing withdrawn or abandoned request. (1)**

9 The public records officer may close a request when the
10 requestor:

- 11 (a) Withdraws the request; or
12 (b) Fails to:
13 (i) Clarify a request at the direction of the department;
14 (ii) Fulfill the requestor's obligations to inspect the
15 records;
16 (iii) Pay the deposit;
17 (iv) Pay the required fees for an installment;
18 (v) Pay a customized service charge;
19 (vi) Make the final payment for the requested copies.

20 (2) The department will indicate to the requestor that the
21 department has closed the request, unless the department has
22 already indicated in previous correspondence that the request
23 would be closed under the circumstances in sub-section 1 of this
24 section.

25
26 NEW SECTION

27
28 **WAC 192-02-090 Later discovered documents. (1)** If, after
29 the department has informed the requestor that it has provided
30 all available records, the department becomes aware of
31 additional responsive documents existing at the time of the
32 request, the department will:

1 (a) Promptly inform the requestor of the additional
2 documents; and

3 (b) Provide the discovered documents on an expedited basis.
4

5 NEW SECTION

6
7 **WAC 192-02-100 No duty to create records.** The department
8 is not obligated to create a new record to satisfy a records
9 request.

10
11 NEW SECTION

12
13 **WAC 192-02-110 Maintaining a log.** The department must
14 maintain a log of public records requests to include:

15 (a) The identity of the requestor if provided by the
16 requestor;

17 (b) The date the request was received;

18 (c) The text of the original request;

19 (d) A description of the records redacted or withheld and
20 the reasons therefor; and

21 (e) The date of the final disposition of the request.

22
23 NEW SECTION

24
25 **WAC 192-02-120 Providing records in installments.** (1) If
26 applicable, the department may provide:

27 (a) Records on a partial or installment basis as records
28 that are part of a larger set of requested records are assembled
29 or made ready for inspection or disclosure;

30 (b) Links to records on the agency's website as an
31 installment;

32 (c) Installments as the records are assembled; and

1 (d) Records in logical batches.

2 (2) The department may choose to only assemble the first
3 installment. If the requestor claims or reviews the first
4 installment, the department will then assemble the next
5 installments.

6 (3) The department may assess charges per installment for
7 copies made for the requestor, unless the department is using
8 the flat fee charge provided in WAC 42.56.120(2)(d).

9

10

11 NEW SECTION

12

13 **WAC 192-02-130 Denials of requests.** (1) A denial of a
14 request for records will be accompanied by a written statement
15 of the specific reasons therefor.

16 (2) If the department denies a requestor access to public
17 records because it claims the record is exempt in whole or in
18 part from disclosure, the requestor may request the attorney
19 general's office to review the matter, pursuant to RCW
20 42.56.530. The attorney general has adopted rules on such
21 requests in WAC 44-06-160.

22 (3) Any person may obtain court review of denials of public
23 records requests pursuant to RCW 42.56.550.

24

25 NEW SECTION

26

27 **WAC 192-02-140 Fee schedule.** The fee schedule is available
28 on the department's website.

29

30 NEW SECTION

31

1 **WAC 192-02-150 Costs - General.** (1) In order to timely
2 implement a fee schedule consistent with the Public Records Act,
3 it is more cost efficient, expeditious, and in the public
4 interest for the department to adopt the state legislature's
5 approved fees and costs for most of the department records, as
6 authorized in RCW 42.56.120 and as published in the agency's fee
7 schedule. Notwithstanding, for unemployment insurance records
8 covered by chapter 192-15 WAC, the department may charge fees
9 for records consistent with state or federal law.

10 (2) The department is not calculating actual costs for
11 copying its records because to do so would be unduly burdensome
12 for the following reasons:

13 (a) The department does not have the resources to conduct a
14 study to determine actual copying costs for all its records.

15 (b) Conducting a study to determine actual copying costs
16 would interfere with other essential department functions.

17 (c) Through the legislative process, the public and
18 requestors have commented on and been informed of authorized
19 fees and costs provided in the Public Records Act, including RCW
20 42.56.120 and other laws.

21
22 NEW SECTION

23
24 **WAC 192-02-160 Costs - Customized Services** (1) If the
25 department estimates that a request would require the use of
26 information technology expertise to prepare data compilations,
27 or provide customized electronic access services when such
28 compilations and customized access services are not used by the
29 department for other department purposes, the department may
30 impose a customized service charge.

31 (2) The customized service charge is:

1 (a) Intended to reimburse the department up to the actual
2 cost of providing the customized services; and

3 (b) In addition to the charge imposed for providing copies
4 of public records.

5 (3) The department will:

6 (a) Notify the requestor of the customized service charge
7 to be applied to the request;

8 (b) Include:

9 (i) An explanation of why the customized service charge
10 applies;

11 (ii) A description of the specific expertise; and

12 (iii) A reasonable estimate cost of the charge; and

13 (c) Provide the requestor the opportunity to amend the
14 request in order to avoid or reduce the cost of a customized
15 service charge.

16

17 NEW SECTION

18

19 **WAC 192-02-170 Costs - Inspection.** There is no fee for
20 inspecting public records, including inspecting records on the
21 department's website.

22

23 NEW SECTION

24

25 **WAC 192-02-180 Costs - Mailing.** The department may charge
26 actual costs of mailing, including the cost of the shipping
27 container.

28

29 NEW SECTION

30

31 **WAC 192-02-190 Payments.** (1) Payment may be made to the
32 department by:

- 1 (a) Check;
- 2 (b) Money order; or
- 3 (c) Other means as provided by the department.

4

5 NEW SECTION

6

7 **WAC 192-02-200 Processing payments.** (1) Before beginning
8 to make copies or processing a customized service, the public
9 records officer may require a deposit of up to ten percent of
10 the estimated costs of copying all the records selected by the
11 requestor.

12 (2) The public records officer may require:

13 (a) The payment of the remainder of the copying costs
14 before providing all of the records;

15 (b) The payment of the costs of copying an installment
16 before providing that installment; or

17 (c) The payment of a customized service charge.

18 (3) The department will not charge sales tax when it makes
19 copies of public records.

20

21 REPEALER

22

23 The following sections of the Washington Administrative
24 Code are repealed:

- 25 WAC 192-15-010 Purpose.
- 26 WAC 192-15-020 Definitions.
- 27 WAC 192-15-030 Description of central and field
28 organization of employment security
29 department.
- 30 WAC 192-15-040 Procedures for obtaining public
31 records—Designation of departmental

1 employees responsible for public
2 records.
3 WAC 192-15-050 Commissioner's review of denials of
4 public records requests.
5 WAC 192-15-060 Access to individual or employing unit
6 records or information by government
7 agencies—RCW 50.13.060.
8 WAC 192-15-070 Response to subpoenas—RCW 50.13.070.
9 WAC 192-15-080 Access to public records for operation
10 and management purposes—RCW 50.13.080.
11 WAC 192-15-090 Consent to release of records or
12 information—RCW 50.13.100.
13 WAC 192-15-100 Disclosure related to employment
14 security programs.
15 WAC 192-15-110 Public records available.
16 WAC 192-15-120 Office hours.
17 WAC 192-15-130 Copying.
18 WAC 192-15-140 Protection of public records.
19 WAC 192-15-150 Records index—Available material.
20 WAC 192-15-160 Responsible addressee.
21 WAC 192-15-170 Forms.