

**Chapter 192-02 WAC
PUBLIC RECORDS REQUESTS**

NEW SECTION

WAC 192-02-010 Purpose. The purpose of this chapter is to:

(1) Ensure compliance by the employment security department with the provisions of chapter 42.56 RCW concerning disclosure of public records; and

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

NEW SECTION

WAC 192-02-020 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 the department regardless of physical form or characteristics.

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

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

NEW SECTION

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

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

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

NEW SECTION

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

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

NEW SECTION

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

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

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

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

NEW SECTION

WAC 192-02-060 Making a request for public records. (1) To request access to public records of the department, or seek assistance in making such a request, contact the public records officer at:

Public Records Officer
P.O. Box 9046
Olympia, WA 98507-9046
Phone: 1-844-766-8930
Email: recordsdisclosure@esd.wa.gov

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

(a) On the department's request form;

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

(c) By letter mailed to the address listed in subsection (1) of this section;

(d) By email sent to the address listed in subsection (1) of this section; or

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

(3) Public records request should include:

(a) The name of requestor;

(b) The address of requestor;

(c) Other contact information, including telephone number and any email address;

(d) Identification of the public records adequate for the public records officer to locate the records; and

(e) The date and time of day of the request.

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

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

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

NEW SECTION

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

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

(a) The specific exemption; and

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

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

(a) Redact the exempt portions;

(b) Provide the nonexempt portions; and

(c) Indicate to the requestor in writing why portions of the record are being redacted.

NEW SECTION

WAC 192-02-080 Closing withdrawn or abandoned request. (1) The public records officer may close a request when the requestor:

(a) Withdraws the request; or

(b) Fails to:

(i) Clarify a request at the direction of the department;

(ii) Fulfill the requestor's obligations to inspect the records;

(iii) Pay the deposit;

(iv) Pay the required fees for an installment;

(v) Pay a customized service charge;

(vi) Make the final payment for the requested copies.

(2) The department will indicate to the requestor that the department has closed the request, unless the department has already indicated in previous correspondence that the request would be closed under the circumstances in subsection (1) of this section.

NEW SECTION

WAC 192-02-090 Later discovered documents. If, after the department has informed the requestor that it has provided all available records, the department becomes aware of additional responsive documents existing at the time of the request, the department will:

- (1) Promptly inform the requestor of the additional documents;
- and
- (2) Provide the discovered documents on an expedited basis.

NEW SECTION

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

NEW SECTION

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

- (1) The identity of the requestor if provided by the requestor;
- (2) The date the request was received;
- (3) The text of the original request;
- (4) A description of the records redacted or withheld and the reasons therefor; and
- (5) The date of the final disposition of the request.

NEW SECTION

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

- (a) Records on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure;
 - (b) Links to records on the agency's website as an installment;
 - (c) Installments as the records are assembled; and
 - (d) Records in logical batches.
- (2) The department may choose to only assemble the first installment. If the requestor claims or reviews the first installment, the department will then assemble the next installments.
- (3) The department may assess charges per installment for copies made for the requestor, unless the department is using the flat fee charge provided in RCW 42.56.120.

NEW SECTION

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

(2) If the department 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, pursuant to RCW 42.56.530. The attorney general has adopted rules on such requests in WAC 44-06-160.

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

NEW SECTION

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

NEW SECTION

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

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

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

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

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

NEW SECTION

WAC 192-02-160 Costs—Customized services. (1) If the department estimates that a request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized

access services are not used by the department for other department purposes, the department may impose a customized service charge.

(2) The customized service charge is:

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

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

(3) The department will:

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

(b) Include:

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

(ii) A description of the specific expertise; and

(iii) A reasonable estimate cost of the charge.

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

NEW SECTION

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

NEW SECTION

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

NEW SECTION

WAC 192-02-190 Payments. Payment may be made to the department by:

(1) Check;

(2) Money order; or

(3) Other means as provided by the department.

NEW SECTION

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

(2) The public records officer may require:

- (a) The payment of the remainder of the copying costs before providing all of the records;
 - (b) The payment of the costs of copying an installment before providing that installment; or
 - (c) The payment of a customized service charge.
- (3) The department will not charge sales tax when it makes copies of public records.

NEW SECTION

WAC 192-02-210 Fee waivers. Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the conditions set by the department and available on its website.