

**Employment Security Department
Common Exemptions - Chapter 42.56 RCW Public Records Act**

Code	Exemption	Brief Explanatory Description	Statute/Rule/Case
	PROGRAM RECORDS-TITLE 50		
1a	Confidential - Unemployment Information and Program Records – Title 50 - RCW 50.13.020; RCW 50.13.100; RCW 42.56.070(1)	RCW 50.13.020 states any information or records concerning an individual or employing unit obtained by the department through the administration of Title 50 - Unemployment Insurance shall be private and confidential; including information or records which could be foreseeably combined with other publicly available information to reveal the identity of an individual or employing unit.	RCW 50.13.020; RCW 50.13.100; 20 C.F.R. 603(4)(b); RCW 42.56.070(1)
1b	Unemployment Compensation Appeals Records - RCW 42.56.070(1); 20 C.F.R. 603(4)(b), RCW 50.13.050(2)	Disclosure of appeals records and decisions, and precedential determinations on coverage of employers, employment, and wages, is permissible provided all social security account numbers have been removed and such disclosure is otherwise consistent with Federal and State law.	RCW 42.56.070(1); 20 C.F.R. 603(4)(b), RCW 50.13.050(2)
1c	Unemployment Compensation - Survey Information - Public Law 107-347 (Title V Confidential Information Protection and Statistical Efficiency Section 512); Confidential Information – RCW 50.13.015(3), RCW 50.13.020; RCW 42.56.070(1)	Records and information obtained "under a pledge of confidentiality exclusively for statistical purposes shall not be disclosed by an agency in identifiable form" under Public Law 107-347. Records and information being requested has been redacted or withheld in accordance with the Bureau of Labor Statistics (BLS) rules and practices to comply with Public Law 107-347, and note such non-disclosure of the requested records and information is also allowed by RCW 50.13.015(3) and RCW 50.13.020. RCW 50.13.015(3) states the department "may hold private and confidential information obtained for statistical analysis, research, or study purposes if information was supplied voluntarily, conditioned upon maintaining confidentiality of the information". RCW 50.13.020 states any information or records concerning an individual or employing unit obtained by the department through the administration of Title 50 shall be private and confidential. The cited laws are applicable to the records and information being requested.	Public Law 107-347 (Title V Confidential Information Protection and Statistical Efficiency Section 512); Confidential Information – RCW 50.13.015(3), RCW 50.13.020; RCW 42.56.070(1)
	PROGRAM RECORDS-TITLES 50A AND 50B		
2a	Program Records - Paid Family Medical Leave (PFML) Program - RCW 50A.25.020, RCW 42.56.070(1)	Any information or records concerning an individual or employing unit obtained by the department through the administration of Title 50A – Paid Family Medical Leave (PFML), shall be private and confidential, except as otherwise provided in this chapter.	RCW 50A.25.020; RCW 42.56.070(1)
2b	Employee Family and Medical Leave Act - 29 CFR § 825.500(g); RCW 42.56.070(1)	Records and documentation relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files.	29 CFR § 825.500(g); RCW 42.56.070(1)
2c	Program Records - Long Term Care - RCW 50B.04.170; RCW 42.56.070(1)	Any information or records concerning an individual or employer obtained by the employment security department for the purposes of collecting and assessing employee premiums under RCW 50B.04.080 and determining qualified individuals under RCW 50B.04.050 will be considered private and confidential in the same manner provided in chapter 50A.25 RCW.	RCW 50B.04.170; RCW 42.56.070(1)
	PUBLIC EMPLOYEES/VOLUNTEERS		
3a	Public Employees – Applications – RCW 42.56.250(2)	Applications for public employment (other than vacancies in elective office), including the names of applicant, resumes, and other related materials submitted with respect to an applicant.	RCW 42.56.250(2)
3b	Public Employees/Volunteers – Address; Phone; Email; SSN; Driver's License; Emergency Contact; Names and DOB (for dependents) – RCW 42.56.250(4)	The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, driver's license numbers, identicaid numbers, payroll deductions, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, addresses, telephone numbers, and electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.	RCW 42.56.250(4)
3c	Public Employees – Personal Information in Personnel Files – RCW 42.56.230(3); RCW 42.56.050	Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (information regarding misconduct is not exempt).	RCW 42.56.230(3); RCW 42.56.050
3d	Public Employees - Test Questions, Scoring Keys, and other examination data - RCW 42.56.250(1)	Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.	RCW 42.56.250(1)
3e	Public Employees and Volunteers - Photograph and Month and Year of Birth - RCW 42.56.250(8)	Photograph and month and year of birth in personnel files of employees or volunteers of a public agency (except for news media defined in RCW 5.68.010(5)).	RCW 42.56.250(8)
3f	Public Employees - Pending and Completed Employment Investigations Concerning Allegations of Unfair Practice, Violations of Federal, State or Local Laws - RCW 42.56.250(6)	Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name.	RCW 42.56.250(6)
3g	Public Employees - Allegations of Workplace Sexual Harassment or Stalking - RCW 42.56.660(1)	A state agency may not disclose records concerning an agency employee when the requestor is a person alleged in the claim of workplace sexual harassment or stalking to have harassed or stalked the agency employee who is named as the victim in the claim; and, after conducting an investigation, the agency issued discipline resulting from the claim of workplace sexual harassment or stalking to the requestor.	RCW 42.56.660(1)
3h	Public Employees - Allegations of Workplace Sexual Harassment or Stalking - - Pending Court Action Seeking Injunction - RCW 42.56.660(2) & (3)	Pending a court action seeking to enjoin release of records at a state agency - an agency may not release records concerning an agency employee who has made a claim of workplace sexual harassment or stalking with the employing agency, or is named as the victim in the claim. It is also presumed to be highly offensive to a reasonable person under RCW 42.56.050 to disclose, directly or indirectly, records concerning an agency employee who has made a claim of workplace sexual harassment or stalking with the agency, or is named as a victim in the claim, to persons alleged in the claim to have sexually harassed or stalked the agency employee named as the victim and where the agency issued discipline resulting from the claim after conducting an investigation. (Eff. July 1, 2020)	RCW 42.56.660(2) & (3)
3i	Public Employees - Allegations of Workplace Sexual Harassment or Stalking - Lists - RCW 42.56.675	A state agency may not disclose lists of the names of agency employees maintained by the agency in order to administer RCW 42.56.660.	RCW 42.56.675
3j	Public Employees - Individual's Voluntarily Submitted Personal Demographic Details - RCW 42.56.250(11)	Voluntarily submitted non-aggregated and non-deidentified personal demographic details of an individual are exempt. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040(26), immigration status, national origin, or status as a person with a disability.	RCW 42.56.250(11)
	PERSONAL INFORMATION		

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4a	Personal Information – Financial Information – RCW 42.56.230(5); RCW 9.35.005	Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, social security numbers, bank or other financial information identified in RCW 9.35.005. Information in RCW 9.35.005 is information identifiable to an individual that concerns the amount or conditions of an individual's assets, liabilities or credit: account numbers and balances; transactional information concerning an account; codes, passwords, social security numbers, tax identification numbers, driver's license or permit numbers, state identicaid numbers issued by the Department of Licensing, and other information held for the purpose of account access or transaction initiation.	RCW 42.56.230(5); RCW 9.35.005
4b	Personal Information – Tax ID – RCW 42.56.230(4); 42 U.S.C. § 405(c)(2)(C)(viii)(I); RCW 42.56.070(1)	Information required of any taxpayer in connection with the assessment or collection of any tax (Social Security Number).	RCW 42.56.230(4); 42 U.S.C. § 405(c)(2)(C)(viii)(I); RCW 42.56.070(1)
4c	Personal Information - Employee Performance Evaluation - RCW 42.56.230(3)	Routine employee performance evaluation with no discussion of specific instances of misconduct	<i>Dawson v. Daly</i> , 120 Wn.2d 782, 845 P.2d 995 (1993); RCW 42.56.230(3)
4d	Employee reasonable accommodation and medical exam records (ADA) - 42 USC §12112(d); 29 CFR 1630.14(c)(1); RCW 70.02.005(4); RCW 70.02.020(1); RCW 42.56.070(1); RCW 42.56.360(2)	Information regarding the medical condition or history of an employee or applicant shall be treated as confidential medical records.	42 USC §12112(d); 29 CFR 1630.14(c)(1); RCW 70.02.005(4); RCW 70.02.020(1); RCW 42.56.070(1); RCW 42.56.360(2)
4e	Religious Affiliation of Individuals - RCW 42.56.235	All records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation are exempt from disclosure.	RCW 42.56.235; RCW 42.56.070(1)
	ATTORNEY-CLIENT AND WORK PRODUCT PRIVILEGES		
5a	Attorney-Client and Work Product Privileges – RCW 5.60.060(2)(a); RCW 42.56.290; RCW 42.56.070(1)	Communication between client and attorney or between members of the client agency for the purpose of discussing legal advice and/or litigation or for the purpose of gathering information to obtain legal advice or to convey attorney-client communications	RCW 5.60.060(2)(a); RCW 42.56.290; RCW 42.56.070(1)
	PROPRIETARY, FINANCIAL, COMMERCIAL		
7a	Proprietary, Financial, and Commercial Information; Valuable Formulae or Trade Secret – RCW 42.56.270(1); RCW 19.108.010 et seq.; RCW 42.56.070(1)	Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.	RCW 42.56.270(1); RCW 19.108.010 et seq.; RCW 42.56.070(1)
7b	State Procurement Records – RCW 39.26.030; RCW 42.56.070(1)	Records related to state procurements are public records subject to disclosure except bid submissions and bid evaluations are exempt from disclosure until the agency announces the apparent successful bidder.	RCW 39.26.030; RCW 42.56.070(1)
	SECURITY		
8a	Security – Computer and Telecommunications Networks – RCW 42.56.420(4)	Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.	RCW 42.56.420(4)
	TAXES		
9a	Taxes - Excise tax return or tax information - RCW 82.32.330; RCW 42.56.070(1)	Excise tax return or tax information shall be kept confidential and privileged and may not be disclosed	RCW 82.32.330; RCW 42.56.070(1)
	WHISTLEBLOWER		
10a	Whistleblower Protection - Report of improper governmental action - RCW 42.40.040; RCW 42.56.070(1)	Identity or identifying characteristics of a whistleblower or person who in good faith has provided information in a whistleblower investigation is confidential at all times, unless the person consents or acknowledges his or identity pursuant to RCW 43.40.040(2)	RCW 43.40.040; RCW 42.56.070(1)
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