

**Chapter 200-01 WAC
PUBLIC RECORDS**

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

200-01-025	Organizations, operations, and procedures. [Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-025, filed 12/22/11, effective 1/22/12.] Repealed by WSR 21-09-043, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 42.56.120 and 34.05.353 (1) (a) to (f).
200-01-035	Availability of records. [Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-035, filed 12/22/11, effective 1/22/12.] Repealed by WSR 21-09-043, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 42.56.120 and 34.05.353 (1) (a) to (f).

WAC 200-01-010 Purpose. (1) These rules establish the procedures DES will follow in order to provide full access to public records.

These rules (a) provide information to persons wishing to request DES public records and (b) establish processes for both requestors and DES staff to fully assist the public in obtaining such access.

(2) In carrying out its public records responsibilities DES will be guided by the provisions of chapter 42.56 RCW, Public Records Act.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1) (a) to (f). WSR 21-09-043, § 200-01-010, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-010, filed 12/22/11, effective 1/22/12.]

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) "Commercial purposes" means a business activity by any form of business enterprise intended to generate revenue or financial benefit.

(2) "Customary business hours" refers to Olympia administrative office hours which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays and days DES is closed.

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

(4) "DES" or "department" means the department of enterprise services established in chapter 43.19 RCW. Where appropriate, DES or agency also refers to the staff and employees of the department of enterprise services.

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

(6) "Electronic format" or "electronic records" or "electronic records format" refer to digital records as distinct from paper; examples include email, Word or Excel documents, PDF or media files.

(7) "Page" means one impression/image on a single side of a sheet of paper. It also applies to one electronic image of a single side of a sheet of paper. For example, DES considers a physical sheet of paper with an impression/image on both sides as two pages.

(8) "Public Records Act" means the same as chapter 42.56 RCW.

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

(10) "Request" or "PRR" or "PRRs" means a public records request made pursuant to chapter 42.56 RCW.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-015, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-015, filed 12/22/11, effective 1/22/12.]

WAC 200-01-020 About the department of enterprise services.

Headquartered in Olympia and located in the 1500 Jefferson Building, 1500 Jefferson, Olympia, Washington, DES employs people, maintains service locations, and staffs major field offices in Olympia, across the state, and in Idaho. Contact and location information and the agency organizational chart are available on our website at des.wa.gov.

In addition to being a regulatory agency, DES provides services for state government, local governments, the public, private businesses, and state employees. DES is organized into the following service areas:

- (1) Executive office and administrative services for the agency;
- (2) Contracting and purchasing;
- (3) Employee assistance program;
- (4) Employee training and development;
- (5) Facilities and leasing;
- (6) Printing and mail;
- (7) Risk management;
- (8) Small agency services;
- (9) Surplus; and
- (10) Travel, cars, and parking.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-020, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-020, filed 12/22/11, effective 1/22/12.]

WAC 200-01-030 Public records officer. (1) The public records officer is appointed by the director and is located in the Olympia office.

(2) The public records officer is in charge of the DES public records program. The public records officer is responsible for:

- (a) Overseeing compliance with the Public Records Act;
- (b) Implementing DES rules regarding the release of public records for inspection and copying;
- (c) Coordinating DES staff in this regard.

(3) In compliance with DES policy, the public records officer may delegate a designee to act in the officer's place to carry out the responsibilities in this chapter, including processing and responding to public records requests. The DES public records officer will provide the fullest assistance to requestors.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-030, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-030, filed 12/22/11, effective 1/22/12.]

WAC 200-01-040 Processing of public records requests—Request.

(1) Publicly available web records.

Before submitting a PRR, persons seeking DES public records are strongly encouraged to first review the DES website at www.des.wa.gov.

Another website, data.wa.gov, offers data collected from a variety of government agencies. This website provides substantial numbers of public records concerning agency business that are free for viewing and downloading at any time and accessible without submitting a PRR to DES.

(2) Public Records Act requests. DES requires no special form. However, all Public Records Act requests to DES must be sent only to the public records officer in the Olympia office. DES will accept PRRs in any one of the following ways:

Email: publicrecords@des.wa.gov
U.S. mail or delivery:
Public Records Officer
Department of Enterprise Services
1500 Jefferson Street E.
P.O. Box 42445
Olympia, WA 98504-2445

Requestors are strongly encouraged to submit written requests. At a minimum, a written request must include the following information:

- Name of requestor;
- Contact information;
- 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.

(3) If the requestor wishes to have copies of the records made instead of inspecting them, the request should so indicate. Costs will be assessed in compliance with WAC 200-01-075.

DES accepts in-person requests at the Olympia administrative office during customary business hours. If DES receives an oral request, the public records officer will reduce the request to writing and verify in writing with the requestor that it correctly memorialized the request.

Only the Olympia administrative office is authorized to accept public records requests.

Offices other than the Olympia administrative office, other DES email addresses, other DES fax or phone numbers, and other DES staff are not authorized to accept Public Records Act requests to DES.

All communications with DES to access public records of the department or to seek assistance in making such a request, or for the purpose of obtaining information, making requests or making inquiries

concerning the agency's rules for compliance with the Public Records Act shall be addressed as follows:

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

Communications seeking DES records sent or provided to unauthorized locations, addresses or staff, will not be accepted or processed as PRRs. DES will process such communications as general informal inquiries, general correspondence, general requests for information, or discovery, as appropriate. The requestor may resubmit his/her request to the public records officer at the Olympia office.

This Public Records Act records request procedure provides the fullest assistance to requestors by:

(a) Establishing a uniform point of contact for all Public Records Act requests to DES and related inquiries, consistent with the public records officer contact information published in the *Washington State Register*, and pursuant to RCW 42.56.580;

(b) Enabling DES to promptly distinguish PRRs from the high volume of other daily communications to DES on multiple topics. This enables timely responses and avoids excessive interference with essential agency functions as provided in RCW 42.56.100; and

(c) Ensuring that PRRs are centrally reviewed during customary business hours by the public records officer, so DES may more efficiently assign a tracking number to the request, log it in, review it, provide an initial or other response within five business days after receipt as provided in RCW 42.56.520, and otherwise timely process the request pursuant to the Public Records Act and these rules.

(4) Processing - General. The public records officer oversees compliance with the Public Records Act. The public records officer and the office will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the office. More information about submitting public records requests to the office is in this chapter and on the DES website.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-040, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-040, filed 12/22/11, effective 1/22/12.]

WAC 200-01-045 Processing of public records requests—Response.

(1) DES shall respond promptly to requests for records made under the Public Records Act. Within five business days of receiving a PRR, DES will log the request and assign the request a tracking number. The public records officer will evaluate the request according to the nature of the request, clarity, volume, and availability of requested records.

(2) Response. Following the initial evaluation of the request, and within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the requested records available for inspection or copying including:

(i) If copies are available on the DES website, provide an internet address and link on the website to specific records requested;

(ii) 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.

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer may revise the estimate of when records will be available); or

(c) Acknowledge receipt of the request and ask the requestor to clarify all or any part of the request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of the time DES will require to respond to the unclear request or unclear part of a request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing, or by email or letter;

(ii) Clarification may include identifying a record with specificity sufficient for DES to locate or produce the record;

(iii) If the requestor fails to respond to a request for clarification and the entire request is unclear, DES need not respond to it. DES will respond to those portions of a request that are clear; or

(d) Deny the request.

(3) If requested records contain information that may affect rights of others and may be exempt from disclosure, then prior to providing the records, the public records officer may give notice to such others whose rights may be affected by the disclosure. When such notice is given, affected others at their option may contact the requestor and ask the requestor to revise the request. The affected others may, if necessary, seek a court order to prevent or limit the disclosure pursuant to RCW 42.56.540. The notice to all parties, to the affected others or to agencies will include a copy of the request.

(4) Additional time to respond. Additional time for the office to respond to a request may be based upon the need to clarify the request, locate and assemble the records requested, notify affected others or agencies affected by the request, or determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(5) Exemptions. Public records may be exempt from disclosure, in whole or in part. If DES believes that a record is exempt from disclosure and should be withheld (in whole or in part) the public records officer will provide an exemption log which 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, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and state within the exemption log the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.

(6) Communication encouraged. If the requestor has not received a response in writing or has questions or concerns regarding the records request, the requestor is encouraged to contact the public records officer.

(7) The public records officer will close a request and notify the requestor that DES has closed the request administratively under the following conditions:

- (a) When the requestor withdraws the request;
- (b) When the requestor fails to fulfill an obligation to inspect the records; or
- (c) When the requestor fails to pay a deposit, partial payment, or final payment for the requested copies.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-045, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-045, filed 12/22/11, effective 1/22/12.]

WAC 200-01-050 Inspection of public records. (1) A requestor must notify DES in advance of their intent to inspect public records. Using the tracking ID that DES assigns to each public records request, a requestor must identify with specificity and in advance, the records the requestor wishes to inspect. DES will assist the requestor in scheduling an appointment for inspection and may propose convenient alternatives to an in-person visit. Public records will be available for inspection during customary business hours and when staff are available to assist the requestor.

(2) When the request to inspect is for a large number of records, the public records officer may schedule inspection in installments.

(3) DES will notify the requestor of the scheduled appointment. The requestor must inspect the requested records within thirty days of the scheduled appointment. If the requestor or a representative of the requestor fails to inspect the records within the thirty-day period or fails to make other arrangements, DES 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) Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.

Inspections are conducted in accordance with the requirement that agencies protect the requested records from damage or disorganization. No member of the public shall remove a document from the inspection area or disassemble or alter any public record.

(5) After inspection is complete, the requestor may wish to identify which documents the requestor wishes the agency to copy.

(a) Where DES charges for copies, the requestor must pay for the copies prior to the copies being provided to the requestor.

(b) Electronic records will be provided as a link to the records on the DES website if the records are located on the website, or in a format used by DES and which is generally commercially available.

(6) When the inspection of the requested records is complete and any requested copies are provided, the public records officer will close the PRR.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-050, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-050, filed 12/22/11, effective 1/22/12.]

WAC 200-01-055 Protection of public records. (1) DES will maintain its records in a reasonably organized manner. DES will take reasonable measures to protect records from damage and disorganization.

If DES records are maintained in a digital format, they will be provided digitally in response to a PRR. If records are maintained and inspected on paper, a requestor may ask for copies.

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

(a) Only the public records officer will remove records from the designated inspection area.

(b) The quantity of records may be limited in accordance with the available space.

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

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

(e) During inspection, eating, drinking, and smoking are 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 already exist in the file.

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

(h) Departmental personnel will provide all requested copies of records.

(i) The public records officer will remove the records from the inspection area when no longer required by the requestor and no later than the end of the customary business hours.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-055, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-055, filed 12/22/11, effective 1/22/12.]

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.

[Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-060, filed 12/22/11, effective 1/22/12.]

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 used by the agency and that 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 DES has only a paper copy of the record, the public records officer, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor subject to any cost as provided for in WAC 200-01-075. If DES 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) Closing withdrawn or abandoned request. The public records officer will close a request when the requestor:

- (a) Withdraws the request;
- (b) Fails to clarify an entirely unclear request;
- (c) Fails to fulfill an obligation to inspect the records;
- (d) Fails to pay a deposit;
- (e) Fails to pay required fees for an installment;
- (f) Fails to claim an installment;
- (g) Fails to make final payment for the requested copies.

The public records officer will notify the requestor that DES has closed the request.

(6) Later discovered documents. If, after DES has informed the requestor that it has provided all available records, DES discovers additional responsive documents that existed at the time of the request, DES will promptly inform the requestor of the newly discovered additional documents and provide them on an expedited basis.

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

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

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-065, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-065, filed 12/22/11, effective 1/22/12.]

WAC 200-01-070 Exemptions. (1) DES reserves the right to determine that a public record is exempt, in whole or in part, consistent with provisions of the Public Records Act or other applicable provision of law.

(2) Certain exemptions other than the Public Records Act itself restrict the disclosure of documents held by DES. Some examples of such other applicable statutory exemptions include, but are not limited to:

RCW 4.92.210: Privileged and confidential contents of risk management tort claims file.

RCW 5.60.060: Attorney-client privileged records.

RCW 41.04.730: Employee assistance program—Information confidential—Exceptions.

(3) DES reserves the right to delete identifying details when producing any public record when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.050.

(4) DES is prohibited by statute from disclosing lists of individuals or records that may be manipulated to created lists of individuals for commercial purposes pursuant to RCW 42.56.070.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-070, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-070, filed 12/22/11, effective 1/22/12.]

WAC 200-01-075 Costs of providing public records. (1) The following copy fees and payment procedures apply to requests to DES under the Public Records Act and received on or after July 8, 2019, date.

(2) Pursuant to RCW 42.56.120 (2)(b), DES is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) DES does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) DES will charge for the electronic delivery, copies of records, and for transfer and storage media pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). DES will charge the following additional applicable fees allowed pursuant to RCW 42.56.120:

(a) Customized services pursuant to RCW 42.56.120(3).

(b) Optional alternative fee agreements with a requestor pursuant to RCW 42.56.120(4).

The charges for copying and delivery methods used by DES are summarized in the fee schedule available on the DES website at www.des.wa.gov.

(4) Requestors are required to pay any or all applicable charges in advance of receiving records.

(5) DES accepts public records payment by cash, money order, or credit card. DES has limited resources to accept in-person payments. In-person payments are accepted by appointment only and during customary office hours. Using the tracking ID that DES assigns to each public records request, a requestor must identify with specificity and in advance, the record(s) to which payment applies. Whenever a requestor has more than one request pending, the agency must know which fees apply; for this reason the tracking number is required and is provided on the invoice DES sends when payment is due.

Cash is accepted in the exact amount. DES will assist the requestor in scheduling an appointment to pay for records during customary office hours and may propose convenient alternatives to an in-person visit.

(6) DES will close a request when a requestor fails by the payment date to pay in the manner prescribed.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-075, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and 42.56.120. WSR 18-09-014, § 200-01-075, filed 4/9/18, effective 5/10/18. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-075, filed 12/22/11, effective 1/22/12.]

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.

[Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-080, filed 12/22/11, effective 1/22/12.]

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 website at <http://www.des.wa.gov>.

[Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-085, filed 12/22/11, effective 1/22/12.]

WAC 200-01-090 Commercial purposes. No provisions of any rule contained in this title shall be construed as giving authority to any

DES officer or employee to give, sell, or provide access to lists of individuals requested for commercial purposes. If a list of individuals is included in the records requested, DES may require requestors to identify themselves and the purpose of their request, and provide a signed statement that the requestor will not use the list of individuals for commercial purposes.

When DES has credible indication that a requested list of individuals might be used for commercial purposes, DES will investigate the request further. DES will determine on a case-by-case basis whether such further investigation is necessary, based on the identity of the requestor, the nature of the records requested, and any other information available to DES. When DES determines further investigation is necessary, DES will require requestors to identify the purpose of their request.

[Statutory Authority: RCW 42.56.120 and 34.05.353 (1)(a) to (f). WSR 21-09-043, § 200-01-090, filed 4/14/21, effective 5/15/21. Statutory Authority: RCW 43.19.011 and chapter 42.56 RCW. WSR 12-02-004, § 200-01-090, filed 12/22/11, effective 1/22/12.]