



Office of the Education Ombuds Policies and Procedures

Policy 17.0

Last updated: June 21, 2016

ACCESS TO PUBLIC RECORDS

POLICY

This Access to Public Records Policy establishes the procedures that OEO will follow to provide access to public records, consistent with the intent of the Washington State Public Records Act, RCW Chapter 42.56, and its model rules, WAC 44-14. These procedures are intended to allow OEO to provide the fullest assistance to requestors and timely action on requests, while protecting public records from damage and preventing excessive interference with other essential agency functions. OEO is also required to protect certain public records from disclosure subject to various legal exemptions.

Many OEO records are available on our website, including annual reports, publications and informational resources at www.oeo.wa.gov.

Public Records

“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 OEO regardless of physical form or characteristics. RCW 42.56.010(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. RCW 42.56.010(4).

Records Exempt from Disclosure

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. Other statutes outside the Public Records Act may prohibit and exempt disclosure of certain documents or information.

Common exemptions that may apply to records maintained by OEO include: personal information exempted from disclosure under RCW 42.56.230; records developed or obtained by OEO in the course of its conflict resolution work, including but not limited to, the identities of students, complainants, and individuals from whom OEO acquires information that OEO is required to maintain as confidential pursuant to RCW 43.06B.040.¹ To the extent that the OEO engages in informal mediation in resolving disputes, records of mediation communications are privileged under the Uniform Mediation Act (RCW 7.07.070) and RCW 42.56.600. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt, unless publicly cited by OEO in connection with OEO action. RCW 42.56.280. OEO's statute requires education ombuds to treat all matters as confidential and maintain confidentiality of information received.

Consistent with the Public Records Act and RCW 43.06B, OEO may allow access to records or parts of records that relate only to the individual seeking records. If such records contain information that identifies an individual or organization other than the subject of the requested public record, or implies an equivalent privacy right held by other third parties involved in the resolution of that matter, OEO may redact that information prior to disclosure, if possible. Alternatively, OEO may contact that third party to obtain their permission for that information to be disclosed or to allow the party to seek relief pursuant to RCW 42.56.540 to prohibit release of the record. Nothing in this policy is intended to, nor does it, create any right to such notice.

It is an ethical violation for any State employee (including all OEO staff members) to disclose confidential information to any persons who are not entitled or authorized to receive the information; to use confidential information for personal benefit; or to intentionally conceal a record that the employee knows is required to be released. RCW 42.52.050(3), (4). State law also prohibits public agencies from giving, selling, or allowing the inspection of lists of individuals, unless specifically authorized or directed by law, if the requester intends to use the information for commercial purposes. RCW 42.17.260. As noted above, personal information -- including identities of students, complainants and individuals from whom OEO acquires information -- maintained by OEO is exempt from disclosure and required to be kept confidential pursuant to RCW 42.56.230 and RCW 43.06B.040. Accordingly, OEO would not release lists of individuals for commercial purposes or otherwise.

¹ OEO's statute provides that: *The education ombuds shall treat all matters, including the identities of students, complainants, and individuals from whom information is acquired, as confidential, except as necessary to enable the education ombuds to perform the duties of the office. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. 2013 c 23 § 85; 2006 c 116 § 6.*

PROCEDURE

Requests for Public Records

A public records request can be submitted in any format (in person, by mail, email or fax or by telephone). However, the OEO prefers to receive written requests directed to its Public Records Officer (contact information below). To expedite processing of requests, individuals are invited to fill out a Records Request form, found at www.oeo.wa.gov and contact the public records officer at OEO, either by phone or by submission of their Records Request form (via email or regular mail), to provide notice of their request. Any OEO employee who receives a request to access public records will notify the OEO Public Records Officer immediately and provide the requestor with the Records Request form if needed.

Public Records Officer

Attn: Rose Spidell

oeoinfo@gov.wa.gov

Office of the Education Ombuds

155 NE 100th St, Suite 210

Seattle, WA 98125

866-297-2597 toll-free/main

206-729-3251 fax

The Public Records Officer is the main point of contact for those seeking to access records (RCW 40.14.040). The Public Records Officer will assist individuals requesting records, including providing the requestor with the OEO Records Request form and asking for clarification about the request, if needed.

Responses to Public Record Requests

As required by law, OEO shall acknowledge receipt of all requests for public records within five (5) business days from the date the request is received by OEO by contacting the requestor to clarify any records requests, as necessary, and either:

- Provide the record(s);
- Acknowledge the request has been received and provide a reasonable time estimate OEO will need to respond to the request; or
- Deny the request, including the reasons for the denial.

OEO is a small public agency. Please note that additional time may be required to respond to requests to access records if the request involves large volumes of records, the need for redaction, or receiving permissions from other parties whose information is contained in the records.

OEO will conclude each records request by providing a letter to the requestor to

document the following: 1) a summary the requested records; 2) a description of the records provided; 3) an explanation of the basis for any denial of access to records; and 4) notice to the requestor that the request has been closed.

Providing Records – Inspection, Copies, Electronic Records

Public Records are available for inspection and copying, by appointment, during the normal business hours of 8:00 am to 5:00 pm, Monday through Friday, excluding legal holidays. Appointments can be made directly with the Records Officer. OEO can also provide records in the following formats with the following costs:

- By sending copies via regular mail at a cost of \$0.15 cents per page if the response exceeds 25 pages, plus the actual costs of mailing;
- By sending copies via fax at a cost of \$0.15 cents per page if the response exceeds 25 pages;
- By sending electronic copies by email if the response is 25 pages or less (no cost); or
- By making electronic copies available through Dropbox or other equivalent service (no cost).

No fee is charged for inspection of a public record or for locating a record. Payment of copying costs is required prior to release of records unless other arrangements have been made. RCW 42.56.120.

Denial of Records

Any denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record or part of record and a brief explanation of how the exemption applies to the record withheld.

Appeal of Denial of Records

Requestors who disagree with OEO's determination that access to specific requested records must be denied, in whole or part, as authorized by statutory exemption, can petition, in writing, to the Public Records Officer for a review of the decision. Such petitions will be responded to within 2 business days. Further review may be sought from the Washington State Attorney General's office, as well as in Superior Court. Information about the option of appealing records responses to the Attorney General's office can be found at <http://atg.wa.gov/obtaining-records>. OEO is also willing to engage in alternative dispute resolution to resolve the matter. RCW 42.56.530 and 42.56.550.

Retention of Records

OEO is not required to retain indefinitely all records it creates, receives or uses. Pursuant to RCW Chapter 40.14, Preservation and Destruction of Public Records, OEO follows the approved general retention schedule for state agency records and relevant sections of the Office of the Governor’s Specific Records Retention Schedule in the retention and destruction of public records (links provided below and at www.oeo.wa.gov).

RELEVANT LAW AND OTHER RESOURCES:

<u>RCW 40.14</u>	Preservation & Destruction of Public Records
<u>RCW 42.52</u>	Ethics in Public Service, Confidential information – Improperly concealed records
<u>RCW 42.56</u>	Protection of Public Records (Also known as "Washington Public Records Act")
<u>RCW 43.06B</u>	Office of the Education Ombuds
<u>WAC 44-14</u>	Public Records Act, model rules
<u>RCW 7.07</u>	Uniform Mediation Act

Retention Schedules:

- State Government General Records Retention Schedule (SGGRRS, v. 5.1, 2011)
 - http://www.sos.wa.gov/_assets/archives/RecordsManagement/SGGRRS5.1.pdf
- Office of the Governor Records Retention Schedule (v. 1.3, 2015)
 - [http://www.sos.wa.gov/_assets/archives/RecordsManagement/Office-of-the-Governor-Records-Retention-Schedule-v.1.3-\(March-2015\).pdf](http://www.sos.wa.gov/_assets/archives/RecordsManagement/Office-of-the-Governor-Records-Retention-Schedule-v.1.3-(March-2015).pdf)