

Chapter 172-10 WAC

PUBLIC RECORDS REQUESTS

WAC

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WAC 172-10-010 Authority and purpose. (1) Per RCW 42.56.070(1), Eastern Washington University makes available for inspection and copying nonexempt "public records" as described in these rules. 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 Eastern Washington University, regardless of the physical form or characteristics.

(2) The purpose of these rules is to establish the procedures Eastern Washington University will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of Eastern Washington University and establish processes for both requestors and Eastern Washington University staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the Public Records Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the act, Eastern Washington University will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-010, filed 11/24/14, effective 12/25/14.]

WAC 172-10-020 Public records officer. (1) Any person wishing to request access to public records of Eastern Washington University, or seeking assistance in making such a request should contact the public records officer of Eastern Washington University. Throughout this chapter, references to the public records officer shall mean the public records officer or his/her designee.

(2) Contact information:

Public Records Officer
Eastern Washington University
Business and Finance Office
211 Tawanka Commons
Cheney, WA 99004
Phone: 509-359-7496
Fax: 509-359-2266
Email: prr@ewu.edu

(3) Information is also available at the Eastern Washington University website at <https://inside.ewu.edu/rcp/pr/>.

(4) The public records officer and Eastern Washington University shall assist requestors, comply with the Public Records Act, and provide public records training and assistance to university employees.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-020, filed 11/24/14, effective 12/25/14.]

WAC 172-10-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of Eastern Washington University, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays, unless the requestor and the public records officer agree on a different time. Records must be inspected at the offices of Eastern Washington University.

(2) *University Policy Index.* An index of Eastern Washington University's generally applicable rules, policies, and procedures is available for use by members of the public and may be accessed online at www.ewu.edu/policy.

(3) Organization of records. Eastern Washington University will maintain its records in a reasonably organized manner. Eastern Washington University will take reasonable actions to

protect records from damage and disorganization. A requestor shall not take Eastern Washington University records from Eastern Washington University offices without the permission of the public records officer. A variety of records are available on the Eastern Washington University web site at www.ewu.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of Eastern Washington University should make the request in writing on the Eastern Washington University public records request form, or by letter, fax, or email addressed to the public records officer and including the following information:

(i) Name of requestor;

(ii) Address of requestor;

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

(iv) Adequate identification of the public records for the public records officer to locate the records;

(v) The date and time of day of the request; and

(vi) A verification that the records requested shall not be used to compile a commercial sales list.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 172-10-080, standard photocopies will be provided at fifteen cents per page.

(c) A form is available for use by requestors at the office of the public records officer and online at <https://inside.ewu.edu/rcp/pr/>.

(d) The public records officer may accept requests for public records that contain the above information by telephone or in person, but is not required to do so. If the public records officer accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-030, filed 11/24/14, effective 12/25/14.]

WAC 172-10-040 Processing of public records requests—

General. (1) The public records officer will process requests

in the order that allows the most requests to be processed in the most efficient manner. University employees who receive a request for public records shall immediately forward the request to the university public records officer.

(2) Acknowledging receipt of request. Within five business days of receipt of a request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) 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;

(c) Provide a reasonable estimate of when records will be available;

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Follow-up on requests. If Eastern Washington University does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others or may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for the affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If Eastern Washington University believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why 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 indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, Eastern Washington University shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. Eastern Washington University will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the university to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements,

Eastern Washington University may close the request and refile the assembled records. Subsequent requests from the same person will be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer shall make the requested copies or arrange for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. 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 stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that Eastern Washington University has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor withdraws the request, fails to respond to a request for clarification, or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that Eastern Washington University has closed the request.

(11) Later discovered documents. If, after Eastern Washington University has informed the requestor that it has provided all available records, Eastern Washington University becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis. [Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-040, filed 11/24/14, effective 12/25/14.]

WAC 172-10-050 Obligations of requestors. (1) Reasonable notice that request is for public records. A requestor must give Eastern Washington University reasonable notice that the request is being made pursuant to the Public Records Act. Requestors should refer to the Public Records Act; however, requests using

terms such as "public records," "public disclosure," "FOIA," or "Freedom of Information Act" shall be considered by the university as requests for information under the Public Records Act.

(2) Identifiable record. A requestor must request an "identifiable record" or "class of records" before the university can respond. An "identifiable record" is one that university staff can reasonably locate. An identifiable record is not a request for "information" in general. When a request uses an inexact phrase such as all records "relating to" a topic, the university may seek clarification of the request from the requestor.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-050, filed 11/24/14, effective 12/25/14.]

WAC 172-10-060 Processing of public records requests—

Electronic records. (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer will

provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 172-10-080.

(3) Customized access to databases. With the consent of the requestor, the university may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. Eastern Washington University may charge a fee consistent with RCW 43.41A.130 for such customized access.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-060, filed 11/24/14, effective 12/25/14.]

WAC 172-10-070 Exemptions. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other law exempts or prohibits disclosure. Eastern Washington University maintains a nonexclusive list of records that it considers exempt from

disclosure, along with the associated federal or state law that exempts those records, on its public records web site at <http://access.ewu.edu/public-records>.

[Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-070, filed 11/24/14, effective 12/25/14.]

WAC 172-10-080 Costs of providing copies of public

records. (1) Pursuant to RCW 42.56.120 (2) (b), Eastern Washington University is not calculating all actual costs for copying records because to do so would be unduly burdensome as the university does not have the resources to conduct a study to determine all actual copying costs, it is difficult to calculate all costs directly incident to copying records, and to conduct such a study would interfere with other essential university functions. In addition, the university may charge the requestor the reasonable costs of redacting, altering, distorting, pixelating, suppressing or otherwise obscuring any portion of body camera recordings in accordance with RCW 42.56.240 regardless of whether or not the requestor asks for a copy of such recordings or asks to view them in person.

(2) Costs for copies. The university will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2) (b) and (c). The university may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract or other agreement with a requestor. A copy of the university's fee schedule will be available on its public records web site.

(3) The university may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

(4) There is no fee for inspecting public records, unless it requires customized access to a database or the redaction of body camera footage. Before beginning to make the copies, 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. The public records officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of

copying an installment before providing that installment.

Eastern Washington University will not charge sales tax when it makes copies of public records.

(5) Costs of mailing. Eastern Washington University may also charge actual costs of mailing, including the cost of the shipping container.

(6) Payment. Payment may be made by cash, check, or money order to Eastern Washington University.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-06-019, § 172-10-080, filed 2/27/18, effective 3/30/18.

Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-10-080, filed 11/24/14, effective 12/25/14.]

WAC 172-10-090 Review of denials of public records. (1)

Petition for internal administrative review of denial of access.

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.

(2) Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the vice president for business and finance, who will immediately consider the petition and either affirm or reverse the denial within two business days following the university's receipt of the petition, or within such other time as Eastern Washington University and the requestor mutually agree to.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university 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. The attorney general has adopted rules on such requests in WAC 44-06-160. A requestor may initiate such a review by sending a request for review to: Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100 or publicrecords@atg.wa.gov.

(4) Judicial review. 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 28B.35.120(12) and 42.56.070. WSR 18-
06-025, § 172-10-090, filed 2/27/18, effective 3/30/18.

Statutory Authority: RCW 28B.35.120(12). WSR 14-24-034, § 172-
10-090, filed 11/24/14, effective 12/25/14.]