

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-010 Purpose—Scope—Conflict with other regulations.

(1) The purpose of this chapter is to ensure compliance with RCW 42.56.040; with the applicable provisions of the Public Records Act, chapter ((42.17)) 42.56 RCW((, Disclosure Campaign finances Lobbying—Records; and in particular RCW 42.17.250 through 42.17.348 dealing with public records. It)); and to provide notice to the public of the organization and procedure of the department as required by the Administrative Procedure Act, chapter 34.05 RCW.

(2) This chapter establishes general((, —consistent)) rules regarding public records in the custody or control of the department.

(3) Department divisions may adopt additional rules to supplement this chapter.

(4) If specific rules adopted by a division conflict with this chapter, the specific rules control in those situations.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-020 Definitions. As used in this chapter, unless the language clearly indicates otherwise:

"Department" means the Washington state department of financial institutions.

"Director" means the director of the department, who is a cabinet-level appointee of the governor of the state of Washington.

"Division" means an organizational division of the department as the director, pursuant to his or her authority under chapter 43.320 RCW, has or may hereafter designate and empower including, without limitation, the division of administration, division of banks, division of consumer services, division of credit unions, and division of securities.

"Person" means any individual, partnership, joint venture, public or private corporation, limited liability company, association, federal, state or local government entity or agency however constituted, or any other organization or group of persons, however organized.

("Public record" means 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.

"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.)

WAC 208-12-030 Description of organization of department. (1)

The department is an administrative, supervisory, licensing, regulatory, public outreach, educational, and chartering agency.

~~((1))~~ (2) The department is organized pursuant to chapter 43.320 RCW under a director, appointed by the governor, and ~~((four))~~ assistant directors (also known as "division directors"), appointed by the director.

(3) The director has delegated authority to each assistant director to act in a specific functional area. The ~~((four))~~ functional areas are the: ((The)) Division of administration; division of banks; ((the consumer services and administration)) division of consumer services; ((the)) division of credit unions; and ((the securities)) division of securities.

(4) Four of these divisions regulate various programs ~~((, such as))~~ including, but not limited to:

(a) The chartering, licensing, and regulation of state banks ~~((,))~~; nonbank trust companies ~~((,))~~ and trust departments of banks; state savings banks ~~((, savings and loan associations, alien banks, bank holdings companies,))~~; holding companies of state banks and state savings banks; bureaus and other offices; and agricultural credit corporations, federally guaranteed small business loan companies, and business development companies, by and through the division of banks;

(b) The licensing and regulation of consumer loan companies, check cashers and sellers, small loan licensees, mortgage brokers, mortgage loan officers, mortgage loan facilitators, mortgage loan servicers, escrow agents, money transmitters, currency exchangers, and other money services businesses, and tax refund anticipation lenders, by and through the division of consumer services;

(c) The chartering and regulation of state credit unions ~~((,))~~ and credit union service organizations, which are administered by and through the division of credit unions;

(d) The registering and regulation of securities ~~((, mutual funds))~~ offerings and broker-dealers, commodities offerings and broker-dealers, franchises and franchise brokers, business opportunities, and investment advisers, by and through the division of securities; and

(e) The licensing and regulation of other similar ~~((institutions))~~ or incidental financial businesses or areas of financial regulation by one or more of the divisions enumerated in this section.

~~((2))~~ (5) The division of administration acts as support for the other divisions by providing administrative, fiscal, human resources, information technology, and other services. Included within the division of administration are also executive-level personnel, who report directly to the director of the department, and who provide:

(a) Public policy, regulatory, and other advice to the director and to the assistant directors of each of the divisions; and

(b) Public and media relations and communications services to the department and financial education outreach to the general public.

(6) The mission of the department is to regulate financial services to protect and educate the public and promote economic vitality.

(7) The department is charged with protecting the public interest, protecting the safety and soundness of depository institutions

and entities under the jurisdiction of the department, ensuring access to the regulatory process for all concerned parties, and protecting the interests of investors.

~~((3))~~ (8) The governor appoints the director, with the consent of the senate. The director holds office at the pleasure of the governor.

(a) The director has complete charge of the department. The director may deputize one of the assistant directors to exercise the powers and duties of the director in the event of his or her absence. The director may delegate duties to assistant directors ~~((, but there are statutory limitations))~~ in accordance with RCW 43.320.060 ~~((to his power to delegate, and the director remains responsible for all official acts of the employees))~~.

(b) By specific powers of legislation ~~((and delegation))~~, including the power to delegate, the director has the responsibility and authority to act and direct in the following areas:

(i) Administer the laws pertaining to chartering, licensing, registration, education, and regulation of ~~((state banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, mutual funds, franchises, business opportunities, commodities, escrow agents, mortgage brokers, and other similar institutions or areas. A full time staff, including field examiners, carries out these duties.))~~ the financial institutions and businesses and areas of financial regulation set forth in subsection (4) of this section; and

(ii) Adopt and enforce rules consistent with and necessary to carry out the provisions of existing laws.

~~((4))~~ (9) Chapter 34.05 RCW, the Administrative Procedure Act, and department-related statutes and rules govern the formal and informal proceedings conducted by the department.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-040 Location and address of administrative office ~~((s))~~ —Public records officer contact information. (1) The administrative office ~~((s))~~ of the department ~~((and all))~~, including each of its divisions, are located ~~((in Room 300 of the General Administration Building, 210 11th Avenue SW, Olympia))~~ at 150 Israel Road S.W., Tumwater, Washington ~~((+))~~ 98501.

(2) The mailing address of the department and each of its divisions is P.O. Box 41200, Olympia, WA 98504-1200.

(3) The public records officer may be reached at:

Public Records Officer
Department of Financial Institutions
P.O. Box 41200
Olympia, WA 98504-1200
Email: dfipublicrecords@dfi.wa.gov

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-050 Office hours. (1) Public records are available for inspection and copying during customary office hours, consistent with chapter 42.56 RCW, the Public Records Act.

(2) For the purposes of this chapter, the customary office hours of the administrative office are from 8:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-070 Procedure to request public records. (1) ((Members of the public may inspect, copy or obtain copies of)) Many public records ((by making a request on the public records request form prescribed by the division holding the record. The form is available at the administrative office and should be given or mailed to the appropriate division. The request shall)) are available for inspection on the department's web site, www.dfi.wa.gov/public-records-index, at no cost. Requestors are encouraged to view the records available on the web site prior to submitting a records request.

(2) Any person seeking to inspect or copy public records of the department should make the request in writing on the department's request form, available at www.dfi.wa.gov/public-records-index, by letter, fax, email addressed to the public records officer at dfipublicrecords@dfi.wa.gov, or by submitting the request in person at the department's administrative office. The request should include the following information:

(a) The name of the ((person requesting the records)) requestor;

(b) ((The date and time of day on which the request was made;

(c) The nature of the request;

(d)) Contact information such as address, telephone number, email address, or other preferred contact information;

(c) The address where copies of records are to be mailed or emailed, or notification that the requestor wants to examine the records at the department's administrative office;

(d) An identification or description of the public records adequate for the public records officer or designee to locate the record or, if the record requested is referenced within the department's public records index, a reference to the requested record as it is described in the index; and

(e) ((If the requested matter is not identifiable by reference to the index, an appropriate description of the record requested.

(2) The staff person to whom the request is made will assist in identifying the public record requested.)) The date and time of the request.

(3) The department may inquire about the reason for a request for a list of individuals to determine whether the list will be used for commercial purposes.

(4) ((All requests for public records will be acknowledged within five working days after receipt with:

(a) The information requested;

~~(b) An estimated time required to respond to the request; or
(c) A denial of the request.)~~ The department's public records officer or his or her designee may accept, by telephone or in person, requests for public records that contain the above information. If the public records officer or designee accepts such a request, he or she will confirm the receipt and substance of the request in writing.

NEW SECTION

WAC 208-12-075 Processing public records requests. (1) **Order of processing requests.** The department will process requests in the order that allows requests to be fulfilled in the most efficient manner feasible.

(2) **Acknowledging receipt of a request.** The department will acknowledge a request for public records within five business days after the department receives the request, by:

(a) Making the requested records available for inspection or copying or by providing copies of the records, including:

(i) If records are available on the department's web site, by providing an internet address and link on the web site to specific records requested;

(ii) If copies are requested and all applicable costs and deposits, if any, are paid by the requestor or other terms of payment are agreed upon, sending the copies to the requestor;

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

(c) Acknowledging receipt of the request and asking the requestor to provide clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of time the department will require to respond to the request if it is not clarified;

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

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the department need not respond to the request; or

(d) Providing a written statement of denial of the request.

(3) **If no response is received.** If the requestor does not receive an acknowledgment of the records request within five business days, the requestor should contact the public records officer to confirm that the department received the request.

(4) **Records exempt from disclosure.** If a record or portion of a record is exempt from disclosure pursuant to chapter 42.56 RCW or as otherwise provided by law, the department may withhold or redact such record. If records are withheld or redacted, the department will, in writing, state the specific exemption and provide a brief explanation of why the record or portion of the record is being withheld or redacted.

(5) **Providing copies of records.** Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 208-12-090, and costs must be paid to the department prior to delivery of copies. Copies may be emailed or mailed to the

requestor, may be made available to the requestor for pickup at the department's administrative office, or may be made available via a file sharing service.

(6) **Records may be provided in installments.** When a requestor seeks a large volume of records or collection and review of the records will be resource intensive, the public records officer or designee may provide copies or access for inspection of records in installments. Costs for each installment must be paid prior to delivery of the installment.

(7) **Closing withdrawn or abandoned requests.** The public records officer or designee may close a request when: The request is withdrawn by the requestor; the requestor fails to remit fees or a deposit when due, pursuant to WAC 208-12-090(8); the requestor fails to inspect records or retrieve copies of records within thirty days of notice that the records are available for inspection or retrieval; or the requestor fails to provide requested clarification within thirty days and the entirety of the request is unclear. The requestor will be notified in writing that the request has been closed. If a requestor seeks to reopen a closed request, the request may be opened as a new request.

(8) **Bot requests.** The department may deny a "bot" request, which is one of multiple requests from a requestor to the department within a twenty-four-hour period, if the request causes excessive interference with other essential department functions. RCW 42.56.080(3). A "bot" request means a records request that the department reasonably believes was automatically generated by a computer program or script.

(9) **Protecting the rights of others.** If the requested records contain information that may affect the rights of others, and which may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-080 ((Protection)) Inspection of public records. (1) It is the department's responsibility to ((prevent unreasonable invasions of privacy,)) protect public records from destruction, damage or disorganization, and prevent excessive interference with essential functions of the department.

(2) Before a person may ((review)) inspect original records, that person must agree to the following conditions:

((+1)) (a) The records may not be removed from the area designated for review;

((+2)) (b) The records may not be destroyed;

((+3)) (c) The records may not be altered in any way;

((+4)) (d) The records may not be defaced in any way, including marking upon, folding or unfolding anew if in folded form, tracing or fastening with clips or other fasteners except those that already exist in the file;

((+5)) (e) The records may not be cut, torn or mutilated in any way;

((+6)) (f) The records must be kept in the order in which received; and

~~((7))~~ (g) The records will be returned to the ~~((department))~~ department's public records officer or his or her designee when no longer required by the ~~((requester))~~ requestor, but no later than the end of customary business hours.

(3) If the requestor wishes to receive copies of particular records, they should so indicate to the public records officer or designee. Copies will be provided once payment arrangements are made, pursuant to WAC 208-12-090.

(4) The requestor must review assembled records within thirty days of the department's notification that the records are available for inspection. If the requestor fails to inspect assembled records or make other arrangements within thirty days, the department may close the request.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-090 ((Copying)) Fees—Payments. ~~((The department does not charge a fee for inspecting public records. The department may charge fifteen cents per page for providing copies of public records. If copies are requested, the department will make copies or make the department's copying facilities available.))~~ (1) Copy fees and payment procedures apply to requests to the department under chapter 42.56 RCW received by the department on or after the effective date of these rules.

(2) The department finds that it would be unduly burdensome to calculate the actual costs of providing public records to requestors for the following reasons:

(a) The scope of requests and staff time required to provide records varies widely depending on numerous factors;

(b) The department does not have the resources to conduct a study to determine its actual copying costs;

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

(d) 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) 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 the department's records, as authorized in RCW 42.56.120 and as published in the agency's fee schedule.

(4) The department will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The department will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the department may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The department may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the department are summarized in the following fee schedule. Charges may be combined to the extent

that more than one type of charge applies to copies produced in response to a particular request.

Public Records Fee Schedule	
Charge:	Record Type:
15 cents/page	Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to photocopy public records.
10 cents/page	Records scanned into an electronic format or for the use of agency equipment to scan the records.
5 cents for each 4 electronic files or attachments	Records uploaded to email, cloud-based data storage service, or other means of electronic delivery.
10 cents/gigabyte	Records transmitted in an electronic format or for the use of agency equipment to send the records electronically.
Actual cost	Digital storage media or device; any container or envelope used to mail copies; and postage or delivery charges.
Actual cost	A customized service charge, in addition to the charges set forth above, if the department estimates that the 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 agency for other agency purposes.
Alternative Fee	
Up to \$2 flat fee	As an alternative to the charges set forth above, the department may charge a flat fee of up to \$2 when the department estimates that the costs are clearly equal to more than \$2.

(5) Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments unless approved by the director.

(6) The department may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(7) All required fees and deposits must be paid in advance of release of copies or an installment of copies. Payment will be due within thirty days of notice of the amount due. The department will notify the requestor of when payment is due.

(8) Payment should be delivered to the department by check or money order payable to the Washington state treasurer. The department prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted. The department may provide a system that accepts certain forms of electronic payment.

(9) The department will close a request when a requestor fails by the payment date to pay in the manner prescribed by this section.

(10) Upon request, the department will provide a summary of applicable charges before any copies are made. The requestor may revise

the request to reduce the number of copies to be made to reduce the charges.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-100 Exemptions from public records. (1) All public records of the department are available for public inspection and copying pursuant to ~~((these rules))~~ this chapter, unless the department determines that a requested public record or portion of a public record is exempt under the provisions of chapter 42.56 RCW ~~((42.17.310))~~ or other statute.

~~((1))~~ (2) Various statutes exempt certain records from disclosure ~~((7))~~ including, but not limited to: ~~((Securities, RCW 19.100.242, 19.110.140, 21.30.170, 21.30.370, 21.20.480, 21.20.510, 21.20.700, 21.20.855; Banks, RCW 30.04.075; Savings and Loan Associations, RCW 33.04.110; Agricultural Lenders, RCW 31.35.070;))~~

(a) **Division of Banks** - Examination reports and information obtained by the department in relation to:

(i) Washington state commercial banks and their holding companies, RCW 30A.04.075;

(ii) Washington state savings banks and their holding companies, RCW 32.04.220; ~~((and Credit Unions, RCW 31.12.565.~~

~~((2))~~

(iii) Nondepository trust companies, RCW 30B.04.060;

(iv) Agricultural lenders, chapter 31.35 RCW;

(v) Federally guaranteed small business loan companies, chapter 31.40 RCW; and

(vi) Business development companies, RCW 31.24.120.

(b) **Division of consumer services** - Information obtained by the department in relation to:

(i) The personal residence address and telephone number of applicants for a check casher's and seller's license, RCW 31.45.030(3);

(ii) A trade secret as defined under RCW 19.108.010 regarding an applicant for or holder of a check casher's and seller's license, RCW 31.45.030(3);

(iii) Information or reports obtained by the department or prepared by, on behalf of, or for the use of the department regarding money transmitters, currency exchangers, and other money service businesses subject to licensure by the department, RCW 19.230.190.

(c) **Division of credit unions** - Examination reports and information obtained by the department in relation to Washington state-chartered credit unions and credit union service organizations, RCW 31.12.565; and

(d) **Division of securities** - Information obtained by the department in relation to:

(i) Investigation of securities offerors, broker-dealers, and investment advisers, RCW 21.20.480, 20.20.510, 21.20.700, and, especially, 21.20.855;

(ii) Investigation of commodities offerors or broker-dealers, RCW 21.30.170;

(iii) Investigation of franchisors and franchise brokers, RCW 19.100.242; and

(iv) Investigation of business opportunities offerors, RCW 19.110.140.

(3) Other statutory exemptions may cover records received by the department from another regulatory agency or under interagency agreement.

((~~(3) In addition,~~) (4) Federal statutes and rules, including regulations of the federal reserve board of governors, federal deposit insurance corporation, national credit union administration, consumer financial protection bureau, securities and exchange commission, and other federal financial regulators implementing the Freedom of Information Act, at subsection (b)(8) of Title 5, United States Code, Section 552 (5 U.S.C. Sec. 552(b)(8)), which:

(a) Exempts from public disclosure examination and investigation information involving financial institutions that are also subject to regulation by the department; and

(b) May be more expansive than or supersede or preempt Washington state law with respect to public disclosure of such information.

(5) Pursuant to RCW ((~~42.17.260~~)) 42.56.050, 42.56.070, 42.56.210, 42.56.230, and 42.56.240, the department reserves ((~~the right~~)) its authority to delete identifying details when it makes available or publishes any public record, if there is reason to believe that disclosure of such details would be an invasion of personal privacy. All deletions will be justified in writing.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-110 Denials of public records requests—Review. (1)

((If a request for a public record is denied, the person denying it will send the requester a written statement giving the reason for the denial. If based on an exemption, the written statement will give the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. A copy of the denial will be immediately forwarded to the director or designee for review.

(2) The director or designee will consider the denial and affirm or reverse it within two business days.)) Any person who objects to the initial denial or partial denial of a records request may petition, in writing (including by email), to the public records officer for a review of that denial. The petition shall include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

(2) The director or director's designee will consider the petition and affirm, reverse, or modify the denial within two business days following the department's receipt of the petition, or within such other time as the department and the requestor mutually agree. The original denial becomes final if the director does not respond within two business days.

(3) Administrative remedies are not exhausted until the ((~~close of the second full business day following the original denial of inspection~~)) denial becomes final.

(4) Pursuant to RCW 42.56.530, 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. The attorney general has adopted rules on such requests in WAC 44-06-160.

AMENDATORY SECTION (Amending WSR 96-14-082, filed 7/1/96, effective 8/1/96)

WAC 208-12-120 Records index. (~~Each division~~) The department maintains an index of its records available to the public(~~. The index is attached to the department's public records request procedure. Current indices are available upon request~~) on its web site, at www.dfi.wa.gov/public-records-index.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 208-12-130 Information—Address.