



PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 23, 2019
TIME: 7:44 AM
WSR 19-21-170

Agency: Office of the Attorney General

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 19-18-029 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Public Records Act – Public Records Chapter 44-06 WAC

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 10, 2019	9:30 a.m. to 10:30 a.m.	Cherberg Building, Room ABC, 304 15 th Avenue SW, Olympia, WA 98501	Oral comments will be accepted at the hearing.

Date of intended adoption: On or after December 30, 2019. (Note: This is NOT the effective date)

Submit written comments to:

Name: Jennifer Steele
 Address: 800 Fifth Avenue, Suite 2000, Seattle, WA 98104
 Email: Jennifer.Steele@atg.wa.gov
 Fax:
 Other: Written comments may also be submitted through December 9, 2019 through the online comment form available on the website of the Office of the Attorney General on the Rulemaking Activity page at <http://www.atg.wa.gov/rulemaking-activity>.
 By (date) December 9, 2019

Assistance for persons with disabilities:

Contact Jennifer Steele
 Phone: (206) 389-2106
 Fax:
 TTY:
 Email: Jennifer.Steele@atg.wa.gov
 Other: Alternate Contact: Elaine Ganga, Rules Coordinator, (360) 753-9672, Elaine.Ganga@atg.wa.gov
 By (date) December 6, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Office of the Attorney General has proposed amendments to eight Attorney General's Office (AGO) Public Records rules in chapter 44-06 WAC, and proposed to repeal eight rules. The purpose of the proposal is to update the Public Records rules to current laws and AGO practices. For example, some rules refer to RCW 42.17, the prior codification of RCW 42.56, and some refer to old procedures or former office divisions. The proposed amendments address procedures to make records requests, procedures to process requests, other new Public Records Act (PRA) requirements, statutory citations, and other topics. All the Public Records rules in chapter 44-06 WAC are proposed to be amended or repealed, except for WAC 44-06-092 (Copying fees - Payments) which was recently updated and will remain unchanged. Some proposed repealed language has simply been moved into other more logical rule locations.

The anticipated effect is to modernize the Public Records rules so they reflect AGO practices and procedures and to make the rules a better PRA resource for requestors.

Reasons supporting proposal: The Public Records Act (PRA) at chapter 42.56 RCW directs agencies to adopt and enforce reasonable rules to provide full public access to public records. The Public Records rules provide information to records requestors about how to obtain information and public records from the AGO. The AGO Public Records rules have not been updated since 1998 (except the Copying fees - Payment rule) and several rules are outdated in part due to changes in AGO procedure and organization, changes in law and case law, or technology developments. Furthermore, due to the passage of time the outdated provisions are currently less useful for public records requestors.

The reasons to support the proposal to amend the Public Records rules, and to repeal others, include modernizing the rules so they better reflect current laws and so they are a more functional resource about the AGO PRA process.

Statutory authority for adoption: RCW 42.56.040, RCW 42.56.070(1), RCW 42.56.100, RCW 43.10.110, RCW 34.05.310 – 34.05.395.

Statute being implemented: RCW 42.56.100; chapter 42.56 RCW

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Bob Ferguson, Washington State Attorney General Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jennifer Steele	Seattle, WA	(206) 389-2106

Implementation: n/a

Enforcement: n/a

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 34.05.328 (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of these rules pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of these rules.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 42.56.070; RCW 42.56.100; RCW 42.56.120.

Explanation of exemptions, if necessary: The AGO Public Record rules apply only to the AGO, not small businesses. RCW 42.56.100. To the extent there are costs assessed by public agencies providing records in response to PRA requests by small businesses, the authorized costs are set out in statute and apply to all requestors. RCW 42.56.070; RCW 42.56.120.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

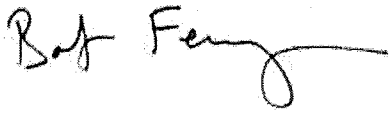
If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 23, 2019	Signature: 
Name: Bob Ferguson	
Title: Washington State Attorney General	

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-010 Purpose. ~~The purpose of ((this chapter is to provide rules for the Washington state attorney general's office, implementing the provisions of chapter 42.17 RCW relating to public records))~~ these rules is to establish the procedures the attorney general's office (office) 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 the office and establish processes for both requestors and the office staff that are designed to best assist members of the public in obtaining such access.

In carrying out its responsibilities under the Public Records Act chapter 42.56 RCW (act), the office will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending WSR 98-01-013, filed 12/5/97, effective 1/5/98)

WAC 44-06-030 Function—Organization—Administrative offices—General inquiries to the office. (1) Function, organization and administrative offices. ~~The ((attorney general's)) office is charged by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the ((attorney general's)) office issues attorney general opinions. ((The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1).))~~ More information about the office's roles is available on the office website at www.atg.wa.gov.

The office is organized into several divisions that provide legal advice to state agencies. Offices are located in cities across the state. The main office is in Olympia. The mailing address and phone number of the Olympia main office is:

Office of the Attorney General
1125 Washington Street S.E.
P.O. Box 40100
Olympia, WA 98504-0100
Phone: 360-753-6200

An online form for contacting the main office is also available on the office website. More information about the Olympia main office, and offices outside the Olympia main office is on the office website.

(2) General inquiries and correspondence unrelated to a Public Records Act request to the office. Inquiries and correspondence concerning a matter unrelated to a Public Records Act request to the office and where a specific assistant attorney general is identified as representing a specific agency should be directed to ((the specifically named)) that assistant attorney general, if known; or the appropriate ((section)) division of the office, if known (example: Washington State University division).

~~((Consumer protection complaints should be directed to the Consumer Protection Division, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012 or to local division offices located in Tacoma, Olympia, or Spokane. Communication concerning the New Motor Vehicles Warranty Act (the lemon law) should be directed to the Lemon Law Administration, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100.~~

~~In addition to the areas mentioned above, the office is divided into several divisions which provide legal advice to state agencies in particular subject matter areas. Because regional office addresses may change from time to time, current division addresses and telephone numbers should be obtained from the local telephone directory or you may obtain an organizational chart and the addresses and telephone numbers of the regional offices of the attorney general by requesting it from the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100, phone (206) 753-6200. Attorney general offices are located in other cities in the state and are denominated as regional offices.)) Other inquiries and correspondence concerning a matter unrelated to a Public Records Act request to the office, including where the relevant attorney, division or regional office is not known, should be sent or directed to the Olympia main office.~~

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-070 Hours for ~~((seeking public records))~~ inspection and copying. Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 98-01-013, filed 12/5/97, effective 1/5/98)

WAC 44-06-080 ~~((Requests for))~~ Public Records Act requests to the office. ~~((In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:~~

~~(1) A request shall be made in writing (or by fax or electronic mail if desired) upon a form prescribed by the office which shall be available at the offices where records are maintained. A request that is made other than upon the form prescribed by the office is permissible, but must provide the information listed in (a) through (f) of this subsection. The form shall be presented to the public records officer; or to a member of the staff designated by him or her, if the public records officer is not available, at the office during the of-~~

office hours specified in WAC 44-06-070. The request shall include the following information:

- ~~(a) The name of the person requesting the record;~~
- ~~(b) The time of day and calendar date on which the request was made;~~
- ~~(c) The nature of the request;~~
- ~~(d) If the matter requested is referenced within a current index maintained by the records officer, a reference to the requested record as it is described in such current index;~~
- ~~(e) If the requested matter is not identifiable by reference to a current index maintained by the office, an appropriate description of the record requested.~~
- ~~(f) If the request is for a list of individuals, the requester shall certify that the request is not for commercial purposes except as provided in RCW 42.17.260(7).~~

~~(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or designated staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.~~

~~(3) The requester may be required to provide additional information necessary to determine the application of an exemption or other law to the record(s) requested.)~~ (1) Website records. Persons seeking public records of the office under the act are strongly encouraged to, before submitting a records request, first review the office's website at www.atg.wa.gov. Indexed records may include formal attorney general's opinions and some orders. Those records are indexed on the website, which is updated as the opinions and orders are issued.

Another website, data.wa.gov, has data about consumer protection complaints to the office. These websites have many records about office business that are free for viewing and downloading at any time, and are accessible without making a Public Records Act request to the office.

(2) Public Records Act requests. Public Records Act requests to the office must be sent or submitted only to the public records officer in the Olympia main office, in one of the following ways:

Online form at <http://www.atg.wa.gov/request-ago-public-records>

Email: publicrecords@atg.wa.gov

U.S. Mail or Delivery:

Public Records Unit

Office of the Attorney General

1125 Washington Street S.E.

P.O. Box 40100

Olympia, WA 98504-0100

Requestors are strongly encouraged to make requests in writing. Requestors are encouraged to use the online Public Records Act request form, which, once completed, is automatically submitted to the Olympia main office and to the attention of the public records officer. The office accepts in-person requests at the Olympia main office during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays and days the office is closed. If the office receives an oral request, the office will reduce the request to writing and verify in writing with the requestor that it correctly memorialized the request.

Other office locations outside the Olympia main office, other office email addresses, other office fax or phone numbers, and other office staff are not authorized to accept Public Records Act requests to the office.

Communications seeking office records, but which are sent or provided to unauthorized locations, addresses or staff, will not be accepted as or processed as Public Records Act requests. The office 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 main office.

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

(a) Establishing a uniform point of contact for all Public Records Act requests to the office 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 the office to promptly distinguish Public Records Act requests from the high volume of other daily communications to the office on multiple topics, so as to enable appropriate responses and thereby avoid excessive interference with other essential agency functions as provided in RCW 42.56.100; and

(c) Ensuring that records requests submitted under the act are centrally reviewed during business hours by the public records officer or designee, so the office 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 act and these rules.

(3) **Processing - General.** The public records officer will oversee compliance with the act but a designee may process the request. The public records officer or designee 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 office's website.

AMENDATORY SECTION (Amending WSR 98-01-013, filed 12/5/97, effective 1/5/98)

WAC 44-06-085 Response to Public Records Act requests. (1) **General.** The office shall respond promptly to requests for ((disclosure)) records made under chapter 42.56 RCW, the Public Records Act. Within five business days of receiving a Public Records ((request, the office will respond by:

(a) Providing the record;

(b) Acknowledging that the office has received the request and providing)) Act request at the main Olympia office, the office will assign the request a tracking number and log it in. The public records officer or designee 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 or designee will do one or more of the following:

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

(i) If copies are available on the office's 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 other terms of payment are agreed upon and satisfied, 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 or designee may revise the estimate of when records will be available).

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request or part of a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of ((the)) time the office will require to respond to the unclear request(~~or~~

~~(c) Denying the public record request. Agency responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld.~~

~~(2)) 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) If the requestor fails to respond to a request for clarification and the entire request is unclear, the office need not respond to it. The office will respond to those portions of a request that are clear.

(d) Deny the request.

(3) Additional time to respond. Additional time for the office to respond to a request may be based upon the need to(~~or~~

~~(a) Clarify the intent of)) clarify the request(~~or~~~~

~~(b))~~, locate and assemble the ((information)) records requested(~~or~~

~~(c))~~, notify third persons or agencies affected by the request(~~or~~

~~(d))~~, 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.

~~((3) In acknowledging receipt of a public record request that is unclear, the office may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.~~

~~(4) (a) If the office does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:~~

~~(i) Consider the request denied; and~~

~~(ii) Petition)) (4) (a) **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 ((under WAC 44-06-120)).~~

~~(b) ((If the office responds within five working days acknowledging receipt of the request and providing)) **Reasonable estimate of time**~~

or costs. The office will provide an estimate of the time required to respond to the request, and ~~((the requester feels))~~ may provide an estimate of copying costs pursuant to a specific request seeking an estimate of cost. If the requestor believes the amount of time or estimated costs stated ~~((is))~~ are not reasonable, the ~~((person seeking disclosure shall be entitled to))~~ requestor may petition the public records officer for a formal review ~~((of the estimate of time. The procedures set out in))~~ under WAC 44-06-120 ~~((shall apply to this review)).~~

(5) Third-party notice. In the event that the requested records contain information that may affect rights of others and 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 under RCW 42.56.540. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, 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.

(6) Exemptions from disclosure. Some records are exempt from disclosure, in whole or in part. If the office believes that a record or part of a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief written 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 or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) Inspection of records.

(a) Consistent with other demands, the office shall provide space to inspect public records at a location designated by the office. 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 office to copy.

(b) The requestor must claim or review the assembled records within thirty days of the office's notification to him or her that the records are available for inspection or copying. The office will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the office 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, the office may close the request and refile the assembled records. Multiple public records requests from the same requestor can be processed in a manner so as not to interfere with essential agency functions including processing records requests from other requestors.

(8) Providing copies of records. After inspection is complete and the requestor asks for copies of some or all of the inspected records, or where copies are otherwise requested by the requestor, the public records officer or designee shall make the requested copies or arrange for copying.

(a) Where the office 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 office's website if the records are located on the website, or in a format used by the office and which is generally commercially available. Records will generally not be provided by email, particu-

larly for larger records responses with multiple records, or where records may not be successfully delivered or received via the office's or the requestor's email systems.

(9) Providing records in installments. When the request is for a large number of records, the public records officer or designee 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 or pay for the entire set of records or one or more of the installments, the public records officer or designee may stop searching for or producing the remaining records and close the request.

(10) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the office has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

(11) Closing withdrawn or abandoned request. When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill his or her obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer or designee will close the request and, unless the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the office has closed the request.

(12) Later discovered documents. If, after the office has informed the requestor that it has provided all available records, the office 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.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-110 Exemptions. (~~(1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 44-06-080 is exempt under the provisions of RCW 42.17.310 or other law.~~

~~(2) Many of the records of the office are protected by the attorney-client privilege and/or the attorney work product doctrine. The office, in the course of representing agencies, may at times have materials or copies of materials from such agencies. A request for such records may be referred by the attorney general to the agencies whose records are being requested. The office may assert exemptions applicable to the agency or agencies which transmitted the material to the office.~~

~~(3) Pursuant to RCW 42.17.260, the office reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.~~

~~(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, in-~~

cluding a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.) (1) 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 statute" exempts or prohibits disclosure. The office maintains a list of exemptions commonly applicable to its records which can be found on the office website, www.atg.wa.gov. Requestors should view this list to be aware of some of the exemptions, some of which are outside the Public Records Act, that restrict the availability of some records held by the office including, but not limited to, attorney-client privilege and work product doctrine.

(2) The office is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-120 Review of denials of public records requests, estimates of time, estimates of costs. (1) The requestor is encouraged to communicate with the public records officer or assigned designee regarding denials of public records requests, estimates of time, or estimates of costs. If the requestor remains unsatisfied, the requestor may seek formal review of the issue.

(2) Any person who objects to the office's denial or partial denial of a request for a public record, or contends an estimate of time to provide records or copying costs to provide records is not reasonable, may petition for prompt review of such decision by ((tendering)) submitting a written request for a formal internal administrative review to the public records officer.

(3) The written request for formal review shall specifically refer to the written statement by the public records officer or ((other staff member)) designee which constituted or accompanied the denial or estimate.

((+2) Immediately after)) (4) The request for formal review is to be directed to:

Public Records Unit
Office of the Attorney General
1125 Washington Street S.E.
P.O. Box 40100
Olympia, WA 98504-0100
publicrecords@atg.wa.gov

(5) After receiving a written request for formal review of a decision denying a public record or estimate, the public records officer or ((other staff member)) designee denying the request shall refer it to the ((attorney general or his or her)) designated deputy attorney general ((. The attorney general or his or her designee shall immediately consider the matter and either affirm or reverse such denial)) or public records counsel. The office will, within two business days following ((the)) receipt of ((the)) written request ((for review of the denial of the public record.

(3) Administrative remedies shall not be considered exhausted until the attorney general or the designated)), respond with an estimate

of time to consider the matter. Following such review, the deputy attorney general ~~((has returned the petition with a decision or until the close of the second business day following receipt of the written request for review of the denial of the public record, whichever occurs first.~~

~~(4))~~ or public records counsel will either affirm, reverse, or amend the denial or estimate.

(6) For purposes of WAC 44-06-160, the office shall have concluded a public record is exempt from disclosure only after the review conducted under this section has been completed.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-160 Requests for review. ~~((As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the))~~ A person may request ((the attorney general to review the matter.)) that the office conduct a review pursuant to RCW 42.56.530 of a state agency's denial of records requested by him or her. Requests for such review shall be directed to Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. If the state agency provides the records, the office will not issue a written opinion because the question has become moot. However, if the state agency continues to deny access to the records, the office will provide the person with a written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 44-06-020	Definitions.
WAC 44-06-040	Public records available.
WAC 44-06-050	Index.
WAC 44-06-060	Public records officer.
WAC 44-06-100	Protection of public records.
WAC 44-06-130	Consumer protection complaints.
WAC 44-06-140	Adoption of form.
WAC 44-06-150	Availability of pamphlet.

