

Public Records Act (PRA) and Records Retention Training

General Rule- RCW 42.56

- Basic Tenant: All records must be disclosed unless there is a specific exemption
- Records include:
 - Any writing...
 - Writing means handwriting, typewriting, printing, photographing, sound recording, and any other means of recording any form of communication or representation.
 - Includes digital, photos, electronic
 - ...which contains information relating to the conduct of government...
 - ...prepared, owned, used, or retained by any state agency regardless of physical form

Records Retention- RCW 40.14

- Records as defined above must be retained in accordance with Records Retention Schedule
- “Transitory records” (e.g. scheduling emails) need not be retained
- Retention may apply to records on personal equipment
 - If only looking at document, no need to retain
 - If creating or altering record may need to retain (this would apply to text messages)
 - If send/receive record on personal, send copy to Commission address
- Once receive a public records request must retain responsive records even if they could be destroyed under the Records Retention Schedule
- Felony to destroy records in violation of schedule- RCW 40.16.020

Agency & Commissioner Responsibilities

- Request could come to Commissioners—be sure to notify JLARC staff immediately
- Must provide response to requestor in 5 business days
- Must perform an “adequate search”
- Search places that record is “reasonably likely to be found”
 - This may include personal equipment if used for Commission business
 - Need to document how and where search was performed

Production of Records

- Records must be produced unless covered by a statutory exemption
- Exemptions narrowly construed & agency has burden of proving
- Must redact exempt information and provide remainder of record

Costs of Failure to Disclose

- Court impose on the agency a penalty award of up to \$100 a day for each day the record inspection was unreasonably delayed
- Agency will be required to pay other parties’ court costs and attorney fees

Additional Resources

- Office of the Attorney General -- <http://www.atg.wa.gov/OpenGovernmentTraining.aspx>

Open Public Meeting Act (OPMA) Training

BASIC RULE:

Whenever 3 or more Board members are together, do not discuss Board business unless the public has been notified and can attend the gathering.

Main problem areas

- Conference calls
- E-mails (reply all)
- Informal gatherings

Regular and special meetings

- Regular: can conduct any business
- Special: only business on the agenda

Executive Sessions

- Public excluded, Board staff can remain
- Not recorded
- Only for reasons set forth in statute
- Mainly to discuss current or pending litigation

Penalties

- Action taken in meeting is void
- \$100 civil penalty against each Commission member in violation
- Costs and attorney fees

Additional Resources

- Office of the Attorney General -- <http://www.atg.wa.gov/OpenGovernmentTraining.aspx>