

OFFICE OF THE ATTORNEY GENERAL - MODEL RULES FOR PUBLIC DISCLOSURE – CHAPTER 44-14 WAC

History

As part of the 2005 recodification of the Public Records Act to chapter 42.56 RCW, the Legislature asked the Office of the Attorney General to provide guidance to both records requestors and agencies on the public records process by issuing model rules on public disclosure. RCW 42.56.570. The Office adopted Model Rules in 2006. Chapter 44-14 WAC. The Model Rules include model rule language, plus comments. In 2007, the Office adopted Model Rules for electronic records. In 2018, the Office updated the Model Rules again to reflect changes in statutes, laws and technology since 2006-2007.

Effect

The Model Rules are advisory and non-binding; they provide suggested “best practices” for requestors and agencies. Agencies can use the Model Rules to develop their own practices and rules. The Model Rules are also a resource for records training and for the Office’s Local Government Records Consultation Program. The PRA provides that local agencies should consider the Model Rules in adopting local ordinances. As a reminder, statutes can change and court decisions can impact processing records requests submitted under the PRA. Agencies considering the Model Rules as a source for adopting their own PRA procedures should also consider statutory and case law developments after the effective date of the Model Rules.

2018 Amendments

The Office filed the updated final Model Rules in March 2018, effective April 2, 2018. The Office amended 44 rules and repealed one rule. Among other things, the 2018 amendments:

- Change internal references to the PRA from **RCW 42.17** to only **RCW 42.56**, a result of the 2005 recodification by the Legislature.
- **Update other references** to other PRA statutes and descriptions, including, for example, descriptions of agency **copy fees** resulting from 2017 legislative changes to the PRA (repealing a now outdated rule); and, add references to required **PRA training**.
- Add language about public records on **personal devices or in personal accounts** (such as personal email accounts), referencing recent case law.
- Add references to submitting records requests through **agency online portals, and describe examples of how agencies can provide records electronically**.
- Significantly **reduce the discussion of PRA exemptions and judicial review**, given the amount of litigation concerning those two areas of the PRA. The Model Rules instead refer readers to the Office’s online *Open Government Resource Manual* as one source for more information on those two topics.
- Provide **additional references to the Secretary of State – State Archives** as a resource for agencies managing, organizing and retaining public records.

The Office had considered, but did not ultimately adopt, an approach used by some local jurisdictions to categorize public records requests for processing purposes. While the Office recognizes that agencies can use various procedures that enable them to process simple as well as complex requests, given the public comments it was determined to be not feasible at this time to provide one categorization approach that all government agencies could use as a suggested model.

The 2018 Model Rules amendments are available on the Office’s website (<http://www.atg.wa.gov/model-rules-public-disclosure>). They are also on the Code Reviser’s website in the *Washington State Register* and will be incorporated into the online edition of the Washington Administrative Code (WAC).

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