

AGING AND LONG TERM CARE SUPPORT ADMINISTRATION  
RESIDENTIAL CARE SERVICES  
*“Transforming Lives”*

## CHAPTER 9 – Public Disclosure & Discovery

### Overview

The Public Records Act (PRA) requires all state and local agencies to make, with some specific exemptions, all public records they retain available to the public. The public disclosure guidelines and resources that follow contain the Standard Operating Procedures (SOPs) designed to assist RCS staff with the public disclosure process and to help facilitate PRA adherence.

Residential Care Services (RCS) Public Disclosure & Discovery (PDD) unit is responsible for addressing records requests from the public, Attorney General’s Office, and other state agencies. The PDD unit also manages the maintenance, retention, and disposition of RCS’ public records.

### Authority

- [Chapter 42.56 RCW – Public Records Act](#)
- [DSHS Administrative Policies](#) (SharePoint), No. 2.07, 5.02
- [Public Disclosure Resources \(ALTSA Intranet\)](#)
- [Public Records Act - Exemptions](#)
- [DSHS record retention schedules by unit](#)
- [45 CFR, Parts 160, 162, and 164 \(HITECH Act\)](#), HIPAA Privacy Rules
- [WAC 365-18-100](#), Ombuds Record Access
- [WAC 388-97-7050](#), Ombuds Record Access
- [RCW 74.42.430](#), Facility Records/Policy Access
- [RCS Standard Operating Procedures](#) (SOPs)
  - [Chapter 23 Central Files](#) – Record Retention

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## Chapter 9A – Requests for Records, Information: RCS Staff

### Overview

This chapter contains the Standard Operating Procedures (SOPs) that Residential Care Staff (RCS) who work outside of the Public Disclosure & Discovery (PDD) unit are required to follow when receiving record and information requests.

### Requests for Records

1. All records requests received by RCS staff outside the Public Disclosure & Discovery (PDD) unit should be emailed to the PDD unit at [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov) immediately upon receipt. By law, a requester must be responded to within five (5) business days of their request. This is five business days from receipt of the request by DSHS, not from when PDD receives the request. For this reason, the immediate forwarding of any records requests to PDD is of utmost importance.
2. Requests for records may be made to RCS in any format, including by phone, in hardcopy, in person, or by email.
3. If you receive a request in hardcopy, scan the request, and email to PDD. The original hard copy of the request should be sent via campus mail to MS: 45600 (Public Disclosure & Discovery Unit).
4. If a request is received verbally, make sure you note the requestor's full name and contact information (email preferred, but physical address is also acceptable). Also note the type(s) of records being requested and as many relevant names, dates, locations, facility numbers, and/or intake numbers as possible. Email this information to PDD.
5. All RCS staff have a duty to assist in the production of records for a records request. If/when PDD staff contact you to search for records, track your time spent searching and the locations searched. When you notify PDD that your search for records is complete, also include your time spent working on the request.
6. Employees have no expectation of privacy in public records that have been created within the scope of their employment.
7. If requested by PDD, RCS staff are responsible for searching and producing to the PDD unit their emails that have not been vaulted yet (less than 45 days old), as well any information that may be stored on their state-issued personal electronic devices. If no responsive public records exist, then an affidavit to that effect may be issued.

8. Special circumstances:

- Long-Term Care Ombuds Program (LTCOP): [WAC 365-18-100\(5\)](#) provides specific record access to the LTCOP. Contact the PPD unit for direction.
- Insurance Companies regarding Nursing Homes and Adult Family Homes:
  - If the request is for: records, the nature and frequency of complaints about the facility, how many fines have been imposed, or whether fines were paid, or any information which requires gathering of records, review and redaction of the requested information, refer the call to HQ Public Disclosure Staff at (360) 725- 2316 or [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov).
  - If the request is for: the number of beds, the effective date of the license, status of the license, name of the provider, location of the facility, Medicaid contracted services, or any general information that is not included in the web locator, refer the call to Business Analysis and Applications Unit (BAAU) general number at (360) 725-2420.

### **Requests for Information**

In this section, “information” refers to collected facts or data about a specific topic that is not subject to state or federal disclosure laws. Requests for information differ from public disclosure requests in that the requested information is available without legal authority being required. Additionally, it does not provide access to public records.

1. RCS staff should respond to all information requests as courteously and in as timely a manner as possible.
2. Some examples of information requests may be RCS publications, manuals, and licensing information (e.g. effective date of license, name of provider, location of facility, Medicaid contracted services, etc.).
3. If RCS staff receive a request for information that meets the definition of “request for information,” the request should *not* be forwarded to the Public Disclosure Program Manager, but to the relevant Subject Matter Expert (SME). For example: requests for data would be directed to the Performance Measures/Data Retrieval Unit, and requests for information on facility enforcement actions would be directed to the Complaint and Enforcement Unit.
4. Requests for information about a facility in one region: The Regional Manager (RA), Field Manager (FM) or designee will call the requestor and verbally provide the factual regulatory compliance information. It is not necessary to retain and/or document the request or the response.

5. Requests for information that involves multiple regions: Forward the request for information to the RCS Public Disclosure Unit [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov) and staff from this unit will review the request and forward to the appropriate staff.
6. If the RA, FM or designee provides a written response to an information request, then the region should retain a copy of the information request and response, and forward to RCS [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov) for retention in the correspondence section of the facility central file.
7. If you are unsure, whether providing verbal information will violate any privacy or confidentiality laws, please contact the RCS Public Disclosure Program Manager at [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov) for guidance.

**Supervisor will:**

1. Train new staff and ensure they are able to demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

**Quality Assurance Review:**

1. Review this process at least every two years for accuracy and compliance.

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## Chapter 9B – Requests for Records: PDD Staff

### Overview

This section applies to Public, Discovery, and Central Files Unit staff (Central Files, Record retention and Record Management).

### Requests for Records

1. Determine which public records are being sought. Clarify with the requester, if necessary. Always confirm your understanding of the disclosure request with the requester.
2. Within five (5) business days of receipt of a public records request (the day of receipt is Day 0), DSHS must respond in one of the following ways:
  - a. Produce responsive public records;
  - b. Acknowledge receipt of the request and provide an estimated date for first response;
  - c. Provide an internet address and link to the specific records requested;
  - d. Seek clarification of an unclear request; or
  - e. Deny the request in writing, noting the reason(s) for denial.
3. Document and track all records requests in the Agency Records Request Tracking System (ARRTS).
4. With narrow exemptions ([Public Records Act - Exemptions](#)), RCS is legally obligated to produce all existing, responsive, identifiable, public records.
5. Refer to [WAC 388-97-7050](#), [WAC 365-18-100](#) and [RCW 74.42.430](#) for specific record access rights for the Long-Term Care Ombuds Program (LTCOP).
6. RCS is not required to create new documents in response to a records request.
7. Redact or withhold only information that is exempt from public disclosure under [RCW 42.56.210\(2\)](#) and [WAC 388-01-120](#).
8. When providing responsive records, bates stamp and clearly identify the documents.
9. Give internal appeal rights when responding to a records request.

### Supervisor will:

1. Train new staff and ensure they are able to demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

**Quality Assurance Review:**

1. Review this process at least every two years for accuracy and compliance.

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## Chapter 9C – Requests from Attorney General

### Overview

This section contains the Standard Operating Procedure (SOP) that all Residential Care Services staff (RCS) are required to follow. The Attorney General (ATG) has been assigned to advise and defend RCS, and therefore, all documents provided to them should be free of redactions.

### Requests for Administrative Appeals

1. Requests for Administrative Appeal records from our ATG are responded to directly by the RCS Field Office/Headquarters Unit involved.
2. Records provided to the ATG are sent in electronic format only. Do not provide hardcopies of RCS records. If a hardcopy is specifically requested, contact Public Disclosure & Discovery (PDD) at [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov) for assistance/guidance.
3. Save an electronic copy of the records you sent as they may be requested again if/when counsel changes.

### All other requests from the ATG must be handled by Public Disclosure & Discovery (PDD)

1. Staff must forward all ATG requests (except Administrative Appeals requests) to [PDD@dshs.wa.gov](mailto:PDD@dshs.wa.gov).

### Supervisor will:

1. Train new staff and ensure they are able to demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

### Quality Assurance Review:

1. Review this process at least every two years for accuracy and compliance.

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## Change Log

Effective Date	Chapter Sect #	What Changed (brief description)	Reason for Change	Communication & Training Plan
9/20/2019	9, sections A, B, C	PD SOP Development	N/A	MB/SOP R19-069

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