

## Administrative Policy No. 05.02

**Subject:** Public Records Requests

**Information Contact:** DSHS Public Records Officer  
Office of Information Governance  
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**Authorizing Source:** Chapter 42.56 RCW  
Chapter 388-01 WAC  
Chapter 40.14 RCW

**Effective Date:** April 14, 2003

**Revised:** February 20, 2020 <sup>1</sup> Housekeeping update 8/4/2020

**Approved by:** Original signed by Lori Melchiori  
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### Purpose

The Department of Social and Health Services (department or DSHS) strongly supports principles of open government and transparency in its operations. The department also has legal obligations to maintain the confidentiality of client records protected by law. This policy describes the process for responding to public records requests to achieve compliance with legal requirements, promote consistency, and be responsive to requesters.

### Scope

This policy applies to all department programs and employees, and to all public records held by DSHS. This policy does not apply when:

- Responding to discovery requests for records when DSHS is a party to litigation (see [DSHS Administrative Policy 5.05 Management of the Litigation Discovery Process](#));
- Sharing records with partners to administer DSHS programs and coordinate services and benefits;
- Producing records under other statutes that govern access, to the extent they supersede the Public Records Act, including requests by clients for access to their protected health information under the HIPAA Privacy Rule;
- Providing general information; or

- Giving access to records when required by other law, data-sharing contracts, or business process.

### **Additional Guidance**

For disclosure of public records concerning employee workplace sexual harassment or stalking, please refer to AP 05.09 - Workplace Safety and Disclosure of Public Records Concerning Employee Workplace Sexual Harassment or Stalking.

### **Definitions**

**Affected parties:** An affected party is an employee, provider, licensee, or other entity or person who's personal, proprietary, or other sensitive or potentially exempt information is included in records that the department plans to disclose in response to a public records request.

**Agency Records Request Tracking System (ARRTS):** The tracking system and database maintained by the department to document assignments, monitor, and track public records requests.

**Authorization:** Written permission that meets specific required elements to allow the department to disclose confidential information on a one-time or time-limited basis to a third party, including to a legislator, attorney, friend, or family member.

**Client:** A person who receives services or benefits from the department. This term includes consumers, recipients, applicants, residents of DSHS facilities or institutions, patients, division of vocational rehabilitation customers, vulnerable adults or children, and parties receiving support enforcement services. Clients include persons who previously received services or benefits and persons who have applied for benefits or services.

**Client confidential information:** Personal information that identifies a client, protected by state or federal laws from improper disclosure or use, including protected health information.

**Client record:** Includes information held by the department documenting services or benefits provided to a client.

**Confidential information:** Information exempt or protected from disclosure by state or federal laws, including information about DSHS clients, employees, volunteers, interns, providers, or contractors.

**Disclosure:** As authorized by law, the identification of DSHS records or information outside of DSHS and entities administering DSHS programs, regardless of whether they are produced.

**DSHS public records officer:** The person designated as the public records officer for the department under RCW 42.56.580. The DSHS public records officer has primary responsibility for management, oversight, and monitoring of the department's public records request process.

**Exempt information:** Information protected by state or federal law from disclosure under the

Public Records Act. These laws are called “exemptions”. If an exemption applies to all or part of a record, the exempt content can be withheld or redacted. Not all exempt information is considered confidential. Some exemptions may be permissive rather than mandatory.

**Lead public records coordinator (lead coordinator):** The person designated for each division, program, and administration to manage and direct the public records request processing within that organizational part of the department.

**Metadata:** Data about data. Software programs automatically create metadata about the history, tracking, or use of an electronic record. Different types and elements of metadata are available for different types of records. Metadata may include how, when, and by whom a record was created, received, accessed, and changed, how it is formatted, and where it is located. Examples of metadata include, but are not limited to: document properties; hidden rows, cells, and formulas in Microsoft Excel; track changes, comments, and markups in Microsoft Word; and blind carbon-copy (bcc) in e-mail. Some types of metadata are visible, such as file size and date of creation, but many other elements of metadata are not visible or are embedded in the record. Printing of an electronic record typically does not reproduce all elements of metadata.

**Non-DSHS administered IT resources:** Computers, devices, or removable media that are not controlled or owned by DSHS, as defined in the DSHS Information Technology Security Policy Manual. This includes but is not limited to personal cell phones, computers, and other electronic devices.

**Personal representative:** A person authorized to make health care decisions for another person under Washington law. A personal representative may include parents or guardians of unemancipated minor children, guardians for persons declared incompetent by a court, and estate personal representatives of deceased persons, or next of kin under RCW 7.70.065. This term does not include legal or other representatives, a person granted power of attorney, attorneys who do not qualify as personal representatives, or other representatives not authorized to make health care decisions on behalf of another. Whether a person is a personal representative to with authority to access records will depend on the scope of the representative’s authority and the records sought.

**Production:** The act of making records available for inspection and may include copying.

**Public record:** As defined by RCW 42.56.010(3), any record prepared, owned, used, or retained by DSHS to conduct business in any format or medium, including electronic data and metadata. Department public records include client records and may include information exempt or protected from production or disclosure to the general public.

**Public records request:** The process to seek access to public records held by the department, including client records. This term excludes requests under RCW 13.50, RCW 26.23.120, Chapter 70.02 RCW, the HIPAA Privacy Rule as covered by DSHS Administrative Policy 5.03 and other laws exclusively governing responses to records requests.

**Public records review or appeal:** Internal DSHS review of a public records response under

RCW 42.56.520 and WAC 388-01-130(1). This includes but is not limited to a full or partial denial of records.

**Public records appeals officer:** A person designated by each DSHS administration or program to review public records appeals.

**Public records coordinator (coordinator):** A person designated to respond to public records requests within an administration, organizational unit, local office, region, program, or facility.

**Redaction:** Deleting or marking out information from a public record.

**Requester:** The individual or entity seeking access to records under the Public Records Act.

**Work days:** Monday through Friday, excluding legal holidays.

## Policy

### A. **General: DSHS must establish procedures to comply with the Public Records Act.**

1. **Authority:** The Public Records Act in Chapter 42.56 RCW gives the public the right to access records held or used by DSHS to conduct business. Records must be made available to the public upon request, unless exempt by law. This policy sets the general standards and procedures within DSHS for the public records request process to meet legal requirements affecting access to and confidentiality of DSHS records held by DSHS. Under RCW 42.56.580, DSHS must appoint a public records officer to serve as a point of contact for the public and to oversee the department's compliance with the Public Records Act.
2. **Procedures:** Specific procedures, forms, resources, and sample letters to assist with implementing this policy for the department are posted at: <http://one.dshs.wa.lcl/FS/Records/Disclosure/Pages/default.aspx>. Programs may adopt procedures and templates unique to their program needs that comply with this policy.

### B. **Responsibilities**

1. **Management:** DSHS executives and managers set the tone for support of and compliance with principles of open government. The responsible manager for each administration, division, facility, and local office or administrative unit must designate a responsible public records coordinator. Lead public records coordinators must be designated for each division, program, and administration to manage and direct the public records request process and to coordinate the functions of other coordinators within that organizational part of the department. A back-up coordinator should also be designated should the lead coordinator be unavailable. The DSHS public records officer must be informed within one week of any changes in lead coordinators.
2. **Employees:** Every employee must comply with the Public Records Act in granting access to records. Employees have the following responsibilities:

- a. **Receiving public records requests:** Employees who receive a public records request must immediately give the request to the public records coordinator responsible for their program or office, unless the record can easily be given to the requester at the time of the request and does not require redaction. If the request is verbal, the employee receiving the request must transcribe and transmit the request to their public records coordinator within one work day.
  - b. **Responding to public records requests:** When requested by a public records coordinator to respond to public records requests, employees must:
    - i. Search for records within their control that are responsive to the request. This responsibility includes any public records of the department created, sent, organized, received, or stored on DSHS and non-DSHS administered IT resources and includes those kept on or off DSHS property.
    - ii. Provide access to original records or copies of records in the format requested by the public records coordinator. This responsibility includes connecting any external devices, including non-DSHS administered IT resources such as laptops or external drives, to the network or otherwise granting access to records as needed for indexing, searching, and collecting records in response to a public records request.
    - iii. Preserve and retain identified records in any existing format and with metadata intact for electronic records, even if there is a printed copy, until notified by the public records coordinator that retention is no longer needed. Records that are preserved should not be redacted or altered in any way by the employee.
  - c. **Retaining records:** DSHS employees must retain public records, including those created on personal devices, in accordance with applicable retention schedules and Administrative Policy 5.04.
  - d. **Department access to records of employees:** Records created, used, and kept by employees in the course of doing business are considered to be public records of the department. Department employees generally have no expectation of privacy in any records stored on DSHS administered IT resources nor in public records stored on non-DSHS administered IT resources. To comply with department obligations under the Public Records Act, these records may be indexed, searched, accessed, collected, and distributed without notice to the employee or employees who created, contributed to, or otherwise used the records, unless notice is required by law or contract. See Appendix A.
  - e. **Public records requests by employees:** Employees may not use state resources, including email, phones, fax, or work time, to make or communicate about public records requests for their own benefit. Use of state resources for personal public records requests is not considered a de minimis use of state resources. DSHS employees may not inspect records during paid work time for personal public records requests. Employees may not use their knowledge of records and DSHS information for personal gain. See Appendix A.
  - f. **Employee review of public records:** Employees who want to review records before they are disclosed in response to a public records request affecting themselves must do so on their own time.
3. **Public records staff:** The Department designates the following employees to be

responsible for responding to public records requests.

- a. **DSHS public records officer:** Under RCW 42.56.580, the department must appoint a public records officer to serve as a point of contact for the public and to oversee the department's compliance with the Public Records Act. The DSHS public records officer administers, manages, and directs the DSHS public records request process and establishes and implements this policy with the assistance of other DSHS public records coordinators.
- b. **Public records coordinators:** DSHS public records coordinators are the primary employees designated to process and respond to public records requests in accord with this policy and agency procedures set by the DSHS public records officer. If employees other than public records coordinators respond to public records requests, they must also follow this policy. Public records coordinators must have trained back-up staff and procedures to handle and respond to public record requests when they are unavailable. Public records coordinators also serve as a resource and provide training to other staff and requesters on issues involving public records requests.
- c. **Lead public records coordinators:** These employees must be designated for each division, program, and administration to manage and direct the public record request process and to coordinate the functions of other coordinators within that organizational part of DSHS. Lead public records coordinators also serve as the primary link with the public records officer and coordinators for other parts of DSHS.

## C. Procedures

1. **Receipt of request:** A request for public records may be made by any means, including in writing, in person, by e-mail, or by telephone. Use of the [Request for DSHS Records Form \(DSHS 17-041\)](#) is optional but encouraged to clarify the scope of the request and verify the identity of the requester for confidential records. The central point of contact for the department for the public is the DSHS public records officer, but requests may be received by any department employee at any department location. Verbal requests must be transcribed within one work day and forwarded to the responsible coordinator for that administration, program, or location.
2. **Review of request:** The public records coordinator receiving a request for public records, including requests for access to client records, must:
  - Review and evaluate the request;
  - Contact the requester if necessary to clarify the request and to reasonably identify what records are requested;
  - Verify the identity or authority of a requester asking for confidential information; and
  - Determine if other parts of DSHS may have responsive records.
3. **Response to request:** Within five (5) work days of receipt of a public records request by the department, the public records coordinator must send a "five-day letter" in response to the requester. The public records coordinator who first receives the request is

responsible to send the five-day letter or to assign the letter to another coordinator if appropriate. For example, the response may be reassigned if the new coordinator agrees or if responsive records are primarily held by another program. The first work day the department receives the request is not counted when computing the five days. The five-day letter must do one of the following:

- Produce the requested records;
- Provide the specific internet address where the records may be located on the DSHS website;
- Seek clarification of the request;
- Deny the request and give the statutory basis for denial; or
- Estimate when the records will be produced and explain why that time is needed.

4. **Clarification:** If a public records request is unclear, vague, does not identify records, or is subject to being misinterpreted or misunderstood, the public records coordinator should request clarification verbally or in writing. Any verbal request for clarification and any response from the requester should be documented in ARRTS. Any changes to a request as submitted should be confirmed in writing. If a request cannot be processed without clarification, the public records coordinator should seek clarification in writing and inform the requester that the request will be closed within a specified time if sufficient clarification is not received.

5. **Response time:** If the records cannot be produced within five work days, public records coordinators must determine the amount of time reasonably needed to respond based on the particular request. The maximum time to respond to requests by clients for their designated record set is described in DSHS Administrative Policy 5.03. Records should also be produced in installments as appropriate. Reasons for needing more time to respond include the following activities that should be listed in the five-day letter:

- Clarify the request;
- Route the request to other parts of DSHS;
- Search for, locate, copy, and prepare records;
- Review records to redact confidential or exempt information;
- Handle the request within current workload; or
- Notify affected parties.

6. **Tracking system:**

- a. Public records coordinators must use the Agency Records Request Tracking System (ARRTS at: <https://arrts/>) to log, route, and track all public records requests received by DSHS, except as described below in Section (6)(b). ARRTS is the mandatory system of record for these requests.
- b. Use of ARRTS is optional for requests for information, simple requests that can be filled quickly such as over-the-counter inquiries for a copy, and other records requests not made under the Public Records Act, including subpoenas when the department is not a party to the action. Programs may set requirements and expectations for the use of ARRTS when optional.
- c. Specific instructions for use of ARRTS are included in the ARRTS Manual and within ARRTS. This system is administered by the DSHS public records officer.

- d. At a minimum, ARRTS must be used to track receipt of the request, task assignments, requests for clarification, issuance of a five-day letter, due date, extensions of time granted, and completion of the request with time recorded for each task. Copies of relevant documents affecting the request must be uploaded into ARRTS, including the request, five-day letter, extension letters, and response cover letters. Responsive records being produced to requesters are not to be uploaded to ARRTS.

#### **7. Documenting activities:**

- a. Public records coordinators must assign themselves and others tasks within ARRTS as needed to complete the request and track and record the time needed to complete those tasks by staff involved in responding to a request.
- b. The public records coordinator entering a request in ARRTS should be assigned as the request coordinator. Other coordinators may be assigned as the request coordinator when records are held primarily by another program or as otherwise appropriate. Assignments in ARRTS should not be reassigned but should be completed and a new assignment made so activities are fully displayed and documented.
- c. The request must be routed through ARRTS to other public records coordinators when it is determined or likely that those programs may have responsive records. Any coordinator who becomes aware that another program may have responsive records must route the request to the lead public records coordinator for that program.
- d. Internal and external correspondence about a request should include the ARRTS request ID number.
- e. The request coordinator is responsible to ensure that information is entered in the system and to close a request after it is completed.

#### **8. Notification**

##### **a. Media requests:**

- i. Public records coordinators who receive a public records request from the media must enter the request into ARRTS and notify the DSHS Office of Communications and the DSHS public records officer of the request within one work day.
- ii. The DSHS public records officer leads responses to media requests and coordinates with the public records coordinator for the program area.
- iii. Before the public records officer responds to or produces any records to the media, the DSHS office of communications must be notified. The office of communications will also be given adequate opportunity to review any correspondence or records as provided in Administrative Policy 2.07, Office of Communications Policy and will complete any review in a timely manner.

##### **b. Affected parties:**

- i. A public records coordinator may notify affected persons or entities of a public records request to allow the opportunity to enjoin disclosure of the records under RCW 42.56.540.



- ii. Unless required by law, department policy, or contract, including collective bargaining agreements, the decision to notify is a program policy decision based on whether the identified party may have a reasonable basis to claim that information in the records is exempt from production to the requester.
  - iii. The public records coordinator must send any notification in writing, giving the affected persons or entity at least ten (10) work days to seek a court order to enjoin disclosure. The notification letter must include the deadline to obtain that order and directions on where to send the order. Notification must also inform affected persons of their obligation to join the requester in any court injunction action.
  - iv. Additional notice requirements for agency employee victims of sexual harassment or stalking can be found in Appendix A.
- c. **Requests for records of other agencies:** If a public records request is received by the department that was intended for another agency or asks for records held by another agency, including the Health Care Authority, the Department of Health, or the Department of Children, Youth, and Families, the public records coordinator must advise that the department does not hold the requested records and provide the contact information for the public records officer of the agency holding the records. If a request is for records owned by the federal government (for example, program records of the division of disability determination services), the five-day letter should deny the request for department records and refer the requester to the appropriate location to obtain access to those records under the Freedom of Information Act.

## 9. Locating and producing records

### a. Searching:

- i. Public records coordinators are responsible to coordinate searches for public records by identifying persons, locations, and formats of requested records.
- ii. Public records coordinators must conduct an adequate search reasonably calculated to locate responsive records. The search must extend to any sources identified as reasonably likely to hold responsive records, including non-DSHS administered IT resources.
- iii. Public records coordinators may use or direct the use of indexing and search tools to perform searches of electronic records following protocols and procedures established for the use of these tools.

### b. Responsive records:

- i. The department must disclose existing identifiable public records to the requester and must produce available nonexempt public records existing as of the date of the request.
- ii. Records are disclosed if their existence is revealed to the requester in response to a public records request regardless of whether they can be produced to the requester under applicable law. Disclosed records must either be produced and made available for inspection or copying, or be withheld and not produced if wholly exempt.

- iii. DSHS does not have to create records to respond to a public records request and is not required to program databases, purchase software, cross-match data between systems, or reconstruct destroyed records.
  - iv. If no department records are located in response to a request, the public records coordinator must inform the requester and describe the search undertaken to locate existing responsive records.
  - v. The records produced as a final response, including electronic records, must be uniquely numbered or identified to document what was provided to the extent technologically possible.
- c. **Electronic records:**
- i. Records must be provided in the format requested if technologically feasible given existing resources.
  - ii. Any redactions in electronic records must be verified to be secure in order to safeguard confidential information from unauthorized disclosure. If records require redaction, providing records in native format with metadata intact may not be technologically feasible.
  - iii. If a requester asks for the metadata of a record, the public records coordinator should clarify the intent of the request and what metadata is requested. Records shall be produced with metadata included if technologically feasible with the available tools and systems available to the program.
- d. **Confidential or exempt records:** Public records coordinators must carefully review records being disclosed to determine if any parts are exempt. If the record contains client or other confidential information about someone other than the requester, the public records coordinator must redact or withhold those parts of the record unless the subject of the records has authorized disclosure or the requester has legal authority to access that record. Refer to Section D 2 below for special provisions applying to access to client records.
- e. **Redactions and withholding:**
- i. Redactions must be limited to the minimum to disclose the most information possible while protecting exempt and confidential information.
  - ii. For each redaction, the legal basis must be cited and a brief explanation of how the exemption applies to the information must also be provided. The DSHS brief explanation of exemptions codes should be used to identify statutory authority and applicable brief explanations. Where existing codes do not adequately describe the claimed exemption or how that exemption applies to withheld or redacted information, additional explanation may be necessary.
  - iii. Entire records may be withheld only if the entire content cannot be provided to the requester.
  - iv. If records are withheld in their entirety or the information remaining in the redacted record does not give sufficient information to identify what is not being produced, the public records coordinator must create and provide a withholding log that includes the number of pages withheld, date and type of record, author, recipient, applicable exemption and brief explanation of the basis for withholding, unless any of that information is exempt. A

sample withholding log is posted at:

<http://one.dshs.wa.lcl/FS/Records/Disclosure/Pages/default.aspx>.

**10. Installments:**

- a. Public records coordinators should produce records in installments to the requester as they are ready.
- b. Production of records by different programs may be considered installments of the same request.
- c. Public records coordinators must notify the requester in writing of the deadline to pay for copies or inspect records ready under an installment.
- d. If a requester does not pay for or inspect any installment of records within the deadline, the department need not produce additional records and may close the request. Public records coordinators should notify the requester of this consequence.

**11. Extending time:** Public records coordinators may extend the estimated response time for a reasonable period needed to complete the response or an installment. They must do so by writing to the requester before the original deadline and provide the reason for needing more time. They must record the extension in ARRTS. However, for requests by clients for their records that include a designated record set, the maximum amount of time allowed is stated in Section D 2 c.

**12. Inspection:**

- a. Requesters may choose to inspect records free of charge after making an appointment with the office producing records as arranged in advance.
- b. The public records coordinator must make records reasonably available at a designated business office during regular department work hours for a minimum of thirty hours per week.
- c. Limits may be placed on the right to inspect records to avoid undue disruption of office operations, to promote employee safety, or to protect the records and confidential information. Generally, original records should not be subject to inspection. Inspection of records on a department computer must comply with security and privacy requirements. A department employee should be present during the inspection to safeguard the records.
- d. If any of the records are exempt or contain redactions, the public records coordinator must provide in writing the statutory basis and brief explanations for redactions and a withholding log for withheld records.
- e. The public records coordinator must document that the inspection occurred by entering the information in ARRTS or otherwise as appropriate.

**13. Charging copying costs:**

- a. Charges for copies are imposed in compliance with RCW 42.56.120, WAC 388-01-080, other state law, and the statement of costs published or promulgated by the department.
- b. Programs may determine standards for waiving charges for copies.
- c. Public records coordinators must notify the requester of the costs and ask for the payment to be made by check or money order payable to DSHS in advance of

providing copies or installments.

- d. A public records coordinator may also ask for a deposit of ten (10) percent of the total estimated costs for copies before starting work on the request. If the deposit is not paid, the request may be closed.
- e. In the billing letter, the public records coordinator should notify the requester that the request will not be processed further and will be closed if the charges are not paid by a specified date.

#### 14. Appeals

- a. **Denial:** When a public records coordinator denies records in whole or in part, the response letter must notify the requester of the right to appeal or seek review of the denial. The appeal process is optional for all other public records requests. Programs may set requirements and expectations for processing appeals.
- b. **Internal review:** Each program must designate a public records appeals officer to review and decide appeals of denials of records under WAC 388-01-130(1). DSHS employees who receive an appeal must forward the request immediately to the public records appeals officer for that administration. The appeals officer must respond within two (2) work days with a decision on the appeal or provide an expected date for making a decision. The decision by the appeals officer is the final agency decision for purposes of judicial review.

#### 15. Retention:

- a. Records identified as responsive to a public records request must be preserved in their original format. These records may not be destroyed under normal retention schedules until the request is resolved and the applicable retention period has passed. Public records coordinators must notify employees of their obligation to hold and preserve requested records until notified that retention is no longer required.
- b. Public records coordinators must keep copies of the request, response, unredacted records, and the final response sent to requesters in accordance with the state retention schedule.

### D. Access to and disclosure of specific types of records

1. **Confidential records:** Information held by DSHS may be confidential or exempt from production in response to a public records request under the Public Records Act or other state or federal law. A list of laws outside the Public Records Act affecting the disclosure of DSHS records is posted at:

<http://one.dshs.wa.lcl/FS/Records/Disclosure/Pages/Exemptions.aspx>. DSHS may disclose confidential information to persons outside DSHS if allowed or required by law or permitted by authorization or consent.

- a. **Verification:** If records are confidential and accessible only to authorized individuals, public records coordinators must verify the identity of the requester unless known to the coordinator or otherwise reasonably assured of the requester's identity.
- b. **Authorization:** A person, including a client or employee, who is the subject of confidential records must grant permission in writing for a requester to obtain

those records in response to a public records request.

- c. **DSHS Authorization Form 17-063:** DSHS employees must provide the DSHS authorization form for use by clients and others when needed to grant access to confidential information and produce copies of client records. Instructions for use and completion of the form are included on the form.
- d. **Other forms:** If a person requesting records submits a different authorization form, the Public Records Coordinator must review that form to ensure that it meets legal requirements before producing confidential information.
- e. **Rights of subject:** The person granting authority to access records may revoke the authorization in writing at any time, but revocation will not affect records already disclosed. Public records coordinators may only disclose information covered by the authorization form.

## 2. Special provisions on access to client records

- a. **Access by clients:** Unless a law denies access or exempts all or part of the records from disclosure, DSHS clients are entitled to inspect and receive copies of their client records created and maintained by the department. Other requirements apply to the disclosure of protected health information in designated record sets under the HIPAA Privacy Rule as provided in DSHS [Administrative Policy 05.03](#).
- b. **Access by others:** Depending on context, a client's personal representative as defined by state law who has the authority to act for the client may also have the right to access and to receive copies of client records.
- c. **Patient records:** Different and additional requirements and rights may apply when patient records held by a DSHS state hospital or health care facility are requested. When records are being provided under chapter 70.02 RCW, chapter 10.77 RCW, the HIPAA privacy rule or other law that serves as the exclusive process to provide records, the program's response should clarify that the records are not being produced under the Public Records Act.
- d. **Children's records:**
  - i. Access to child welfare records is granted only under RCW 13.50.100 and to juvenile offender records under RCW 13.50.050, not the Public Records Act. Processes in this policy may be followed as guidance for requests made under chapter 13.50 RCW but that law provides the exclusive process to release those records.
  - ii. For other client records held by the department, parents or guardians may generally access and grant permission to others to access client confidential records of a minor child who has not been emancipated by a court. However, children over the age of consent for specified kinds of records must authorize access to those records (13 years old for mental health or drug and alcohol services; 14 years old for records about HIV/AIDS or other sexually transmitted diseases (STDs); any age for birth control or abortion; or 18 years old for other health care or client confidential records).
- e. **Special records:** Federal and state laws impose special protections on client records containing information relating to HIV, AIDS, STDs, substance use disorder, birth control or abortion, and mental health treatment. To disclose these

records, the client must grant specific permission on the authorization form as required by applicable law. The disclosure of psychotherapy notes must be authorized on a separate form.

**3. Personnel related records**

- a. **Confidentiality:** Authorization from the employee or a court order is required to disclose confidential information from an employee's file. Confidential information is limited to that exempt from disclosure by law, court order, or would violate the employee's right to privacy and is of no legitimate interest to the public. Processing instructions for personnel related records of claimants and victims of workplace sexual harassment or stalking investigations are located in AP 05.09 – Workplace Safety and Disclosure of Public Records Concerning Employee Workplace Sexual Harassment or Stalking.
  - b. **Personnel files:** Under RCW 49.12.240, requests by current employees or their own representatives for personnel files are not handled as public records requests. These requests are processed according to the applicable collective bargaining agreement and administrative policies. Public records requests for personnel records of a DSHS employee by third parties or by a former employee are treated as public records requests and must be processed by sending a five-day letter, and then routed through ARRTS to the public records coordinator for the human resources division.
  - c. **Program records:** The appropriate program public records coordinators process requests for their program records responsive to employee-related public records requests, including emails, supervisory files, or other program generated records.
  - d. **Investigations:** The human resources division processes responses to public records requests for investigations conducted by the Washington State Patrol and by the human resources division. Program public records coordinators process responses to public records requests for administrative investigations conducted by the programs. Managers, investigators, or others receiving requests for these records must forward them to the appropriate public records coordinator for response.
  - e. **Payroll records:** Requests for payroll records must be routed to the facilities, finance, and analytics administration public records coordinator.
  - f. **Union requests for information:** Requests for information from labor unions made in the course of representing DSHS employees are not public records requests under the Public Records Act and are to be forwarded to and processed by the human resources division labor relations office at [dshslaborrelations@dshs.wa.gov](mailto:dshslaborrelations@dshs.wa.gov).
  - g. **Notification:** Unless the employee has authorized disclosure, public records coordinators will notify affected employees of public records requests for records within their personnel related records. Notification will be sent as required by the terms of the collective bargaining agreements to represented employees and to other employees following the same standards.
- 4. Court orders, third party subpoenas, and compulsory process:** When public records coordinators are assigned the responsibility to process responses to subpoenas, court orders, or other process served on the agency by third parties to obtain records:

- a. Public records coordinators must respond within the time frames in the subpoena to respond and produce records if possible or inform the party serving the subpoena of additional time reasonably needed to respond. ARRTS may be used to track these responses to subpoenas.
- b. Public records coordinators must follow confidentiality standards applicable to the records requested and object to the subpoena under the appropriate court rule or applicable law or redact the records if valid authorization of the subjects of the records is not provided. The assistant attorney general for the program should be copied on this response.
- c. These provisions apply to compulsory process under RCW 70.02.060 for health care records in addition to subpoenas issued by an attorney or court.
- d. This section applies to actions where the department is not a party to the underlying proceeding and does not apply to matters handled under [DSHS Administrative Policy 05.05 Management of the Litigation Discovery Process](#).

**E. Public Records Act Litigation**

1. **Point of contact:** The DSHS public records officer is the primary contact for all litigation under the Public Records Act involving the department. Employees must notify the DSHS public records officer of any current or threatened litigation under the Public Records Act. The DSHS public records officer is the lead in working with the Office of the Attorney General on these matters. Each administration must also designate a lead point of contact to assist in coordinating involvement in the Public Records Act litigation.
2. **Decisions:** Agency decisions on settlements, appeals, and agency-initiated actions under the Public Records Act are coordinated through the DSHS office of information governance, in consultation with the points of contact for the affected programs and executive management as needed.
3. **Awards:** Payments for settlement awards or judgments are the liability of the responsible program area.

**F. Public records metric reporting**

1. The DSHS public records officer is responsible for submitting public records metrics annually to the Joint Legislative Audit Review Committee (JLARC) as required by RCW 40.14.026.
2. Public records coordinators must accurately and timely document request information into ARRTS to track all metric data required to be reported to JLARC. This includes, but is not limited to: date of receipt of the request, task assignments, issuance of a five-day letter, due date, extensions of time granted, clarification requests, how records are produced, and completion of the request with time recorded for each task.

<sup>1</sup> Grammar and formatting updates, added reference to new AP 05.09 - Workplace Safety and Disclosure of Public Records Concerning Employee Workplace Sexual Harassment or Stalking under “**Additional Guidance**”.