

## **Olympic College and the Washington State Public Records Act: What Staff and Faculty Should Know**

Every state agency employee, such as at Olympic College, is required to follow Washington state's "sunshine laws" otherwise known as the Public Records Act. Public record disclosure laws were passed in Washington 30 years ago by the state's voters to assure the government provides accountability and transparency to the people of the state.

This is a brief guide designed to answer some of the most frequently asked questions from OC faculty and staff about public records and their disclosure. To access more about the law and its requirements, please go to the Washington State Attorney General's website:  
[www.atg.wa.gov/OpenGovernment/InternetManual.aspx](http://www.atg.wa.gov/OpenGovernment/InternetManual.aspx).

### **What are public records?**

A public record is any writing "regardless of physical form or characteristics" that pertains to fulfilling a "governmental function." For example, handwritten notes, typed documents, emails, photographs, video, and sound recordings are all considered to be public records. You should presume that any record used in the operation of the College and which is prepared, owned, used or retained by the College is a public record.

### **How does a public records request work and why do people make requests?**

Any member of the public, including the media, attorneys, or organizations, can submit a request in writing for specific public records from a state agency such as Olympic College. A state agency has five business days to provide the requested records or submit a written response when records will be released if not readily available. It is not required under the law to ask the reason the requestor wants the records.

### **What information can be released through a public records request?**

Most information is releasable in a public record. As long as the request seeks records that can be identified, there are no limits to the number or type of records that can be requested. However, certain exemptions do exist and some information may not be released under exemptions if they apply.

**Who has responsibility for responding to public records requests?** The Olympic College Public Information Office (within the Communications Department) is responsible for coordinating the College's responses to public records requests; its role includes obtaining clarification or narrowing of a request and determining exemptions. If you have any questions about what a request is seeking, including how to interpret words or phrases, call the OC Public Information Office, 475-7106.

**What is my responsibility as an OC employee to fulfill a request?**

As a College faculty or staff employee, you are required to fully assist the College in responding to requests for public records. The OC Public Information Office will notify you, your department or division about the request for records. Once you receive notification, you must undertake a complete search for any and all records in your area described in the request and provide them to the OC Public Information Office. This includes records you consider confidential, documents that may be covered by the attorney-client privilege, documents that have passed their retention date but have been retained, sent, received or deleted emails, or documents that could have been disposed of per contractual obligations but were not.

**I thought my emails were private when they are used in the course of my job. Is this the case?**

**No.** Emails are considered to be public records under state law and pertain to fulfilling a “governmental function,” which is conducting work in a position at a state agency such as Olympic College. Even emails generated and sent on a home computer can be a public record when used in the course of your work for a state agency. Information in a public record, no matter the location, can be released to any member of the public that requests it.

**Is there a penalty for not responding?**

**Yes.** The College must promptly respond to a public records request under the law and can be made to pay costly fines plus attorney's fees if it does not comply (or does not disclose or specifically exempt ALL responsive records). The fines can reach as high as \$100 per document per day. Someone who is not satisfied with the College's response to a public records request for any reason, including the pace of a response, may also sue the College.

**What if I've made every effort to find information but don't have time to look in other locations?**

If documents exist, no matter their location, they must be found and provided to the OC Public Information Office. According to the *Public Records Deskbook (2006)* created by the Washington State Bar Association, “unfortunately for agencies, good faith and due diligence cannot substitute for results. The Public Records Act punishes an agency for any shortcomings in meeting its obligation to provide records requested.”

**Who covers the costs of meeting these requests?**

It can often be quite costly, particularly in employee time, to comply with public records requests. The College is not allowed to recover the costs of responding to a public records request other than the cost to copy documents, currently 10 cents per copied page.

**Can I ever throw anything away?** Files may be cleaned or updated in the normal course of business, keeping in mind the General Retention Schedule for Washington's Community and Technical College System. However, once a public records request has been received, all documents maintained in any format, hard copy, electronic or otherwise, that are involved in that request must be maintained and may not be destroyed or altered until the College has fully complied with the request.

**What are the specific steps I need to take as an OC faculty or staff member to fulfill my obligation and assist the College in its response to a public records request?**

1. Identify all locations that may have records that are potentially responsive to the request. Be sure to include any off-site location in your assessment. Do not assume that someone else is going to provide records that you also have in your control.
2. Take immediate steps to preserve potentially responsive records from destruction or alteration.
3. Promptly estimate the amount of effort and time that will be required to identify and make copies of potentially responsive records and promptly communicate this to the OC Public Information Office. Direct any questions about the request to the OC Public Information Office.
4. Develop a plan for identifying and copying potentially responsive records. The College often discloses records for large requests in installments over time.
5. Determine and organize which documents go with requested list of items and provide single-sided copies of all potentially responsive documents to the OC Public Information Office. Include a copy of the request so that the OC Public Information Office can track which set of documents is linked to which request. You may hand-deliver the copies or send via campus mail.
6. Let the OC Public Information Office know if you have any concerns about the disclosure of any particular records. Do not withhold records from the OC Public Information Office because you think they are not responsive or should not be disclosed. The OC Public Information Office is charged with the authority to make these decisions in consultation with you.