

## **KCDA- Local Public Records Act Policy**

Consistent with Washington State law, the KCDA Board of Directors is committed to providing the public full access to records concerning the administration and operations of KCDA. Such access promotes important public policy, maintains public confidence in the fairness of governmental processes, and protects the public's interest in the control and operation of public agencies. At the same time, the Board desires to preserve the efficient administration of KCDA's operations and acknowledges the privacy rights of individuals whose records may be maintained by KCDA. This policy and the accompanying procedure are intended to facilitate access to KCDA records without compromising operational efficiency or privacy rights.

As used in this policy and the accompanying procedure, "public records" is a broad term that includes any writing containing information relating to the conduct of KCDA or the performance of any KCDA function prepared, owned, used, or retained by KCDA regardless of physical form or characteristics. A "writing" as used in this policy and procedure is likewise a broad term that means any handwriting, typewriting, printing, photocopying, photographing, or other means of recording any form of communication or representation. Included within these definitions are digital and electronic forms of communication, including emails, texts or messages through any medium or application, pages, postings and comments from any KCDA-operated or KCDA-sponsored website. KCDA will retain public records in compliance with state law and regulations.

The definition of "public records" does not include records that are not otherwise required to be retained by KCDA and are held by volunteers who do not serve in an administrative capacity, have not been appointed by KCDA to a KCDA board, commission, or internship, and do not have a supervisory role or delegated KCDA authority.

Because of the tremendous volume and diversity of records continuously generated by KCDA, the Board declares that trying to maintain a current index of all of KCDA's records would be impracticable, unduly burdensome, and ultimately interfere with the operational work of KCDA. Additionally, the Board hereby finds that it would be unduly burdensome to calculate the costs of producing public records, given the multiple different electronic and manual devices used to produce public records, as well as the fluctuating costs of KCDA supplies and labor.

The Executive Director will develop—and the Board will periodically review—procedures consistent with state law that will facilitate this policy. The Executive Director will also appoint a Public Records Officer who will serve as a point of contact for members of the public who request the disclosure of public records. The Public Records Officer will be trained in the laws and regulations governing the retention and disclosure of public records and shall oversee KCDA's compliance with this policy and state law.

## **KCDA- Local Public Records Act Procedures**

### **Purpose of these Procedures and General Principles**

These procedures have been established by the Executive Director and published pursuant to KCDA- Local Public Records Act Policy and RCW 42.56.040 to explain the process for public access to public records and to provide guidance in how KCDA will respond to such requests. Terms used herein shall have the same meaning as set forth in the accompanying Policy.

### **Public Records Officer**

For the most timely and efficient response, requests for public records should be directed in writing to the Public Records Officer listed below, whose responsibilities include serving as a point of contact for members of the public in this process and overseeing KCDA's compliance with the Washington Public Records Act, Chapter 42.56 RCW, and KCDA's Local Public Records Act Policy.

The current Public Records Officer of KCDA may be reached at KCDA's Central Administrative Building as follows:

Position: Human Resources Manager  
Address: 18639 80<sup>th</sup> Ave S, Kent WA 98064  
Phone: (425) 251-8115  
Fax: (253) 395-5402

Information regarding contacting the Public Records Officer is also available on the KCDA website.

### **Public Records Officer Training**

Consistent with state law, the Public Records Officer shall complete trainings related to the Washington Public Records Act and public records retention no later than ninety (90) days after assuming the responsibilities of the Public Records Officer. After the initial training(s), the Public Records Officer must complete refresher training at intervals of no more than four years as long as they remain KCDA's Public Records Officer. Training must address particular issues related to the retention, production, and disclosure of electronic documents, including updating and improving technology information services.

### **Availability of Public Records; Hours for Inspection**

Public records are available for inspection and copying by appointment during normal business hours of KCDA, Monday through Friday, 8 a.m. to 4:30 p.m., excluding Agency holidays. Records must be inspected at the offices of KCDA. There is no charge for the inspection of public records if copies are not provided.

## **Organization of Records**

KCDA will maintain its records in a reasonable, organized manner and take reasonable actions to protect records from damage and disorganization. A requestor shall not take KCDA records from KCDA offices without the permission of the Public Records Officer or designee. During the inspection of records, a KCDA employee will typically be present to protect records from damage or disorganization.

KCDA will also maintain a log of public records requests that have been submitted to and processed by KCDA. This log shall include, but not be limited to, the following information for each request: The identity of the requestor if provided, the date the request was received, the text of the original request, a description of the records produced in response to the request, a description of the records redacted or withheld and the reasons therefor, and the date of the final disposition of the request.

## **Information Online**

A variety of records and information are available on KCDA website. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

## **Making a Request for Public Records Request to Public Records Officer**

Any person wishing to inspect or copy public records of KCDA shall make the request in person during KCDA's normal office hours, or in writing by letter, fax, or email addressed to the Public Records Officer and including identifying and contact information sufficient to allow KCDA to process the request.

## **Identifiable Records**

A request under the Washington Public Records Act, Chapter 42.56 RCW and KCDA's Local Public Records Act Policy must seek identifiable record(s). A request for all or substantially all of the records prepared, owned, used, or retained by KCDA is not a valid request for identifiable records. General requests for information from KCDA that do not seek identifiable records are also not covered by KCDA's Local Public Records Act Policy. A request for all records discussing a particular topic or containing a particular keyword or name will not be considered a request for all of KCDA's records.

## **Requesting Electronic Records**

The process for requesting electronic public records is the same as for requesting paper public records. However, to assist KCDA in responding to a request for electronic records, a requestor should provide specific search terms that will allow the Public Records Officer or designee to locate and assemble identifiable records responsive to the request.

## **Creating New Records**

KCDA is not obligated by law to create a new record to satisfy a records request. KCDA may choose to create a record depending on the nature of the request and the convenience of providing the information in a new document, such as when data from multiple locations is requested and can be more easily combined into a single new record.

## **Copies of Records**

If the requestor wishes to have copies of the records made instead of inspecting them, the requestor shall make this clear in the request and make arrangements to pay for copies of the records or a deposit.

## **Requests Not in Writing**

The Public Records Officer or designee may accept informal requests for public records by telephone or in person. To avoid any confusion or misunderstanding, however, requestors should be mindful that a request reduced to writing is the preferred method. If the Public Records Officer or designee receives a request by telephone or in person, the Public Records Officer will confirm their understanding of the request with the requestor in writing.

## **Processing of Public Records Requests Order of Processing Requests**

KCDA will typically process requests in the order received. However, requests may also be processed out of order if doing so allows the most requests to be processed in the most efficient manner.

## **Central Review**

Records requests not made to the Public Records Officer of KCDA will be forwarded by staff receiving the request to the Public Records Officer for processing.

## **Five-Day Response**

Within five (5) business days of receipt of a request, the Public Records Officer will do one or more of the following:

1. Provide copies of the record(s) requested or make the record available for inspection—or, in the alternative, provide an internet address and link to KCDA's website where the specific record can be accessed (provided that the requestor has not notified KCDA that they cannot access the records through the internet); or
2. Acknowledge that KCDA has received the request and provide a reasonable estimate of the time it will require to fully respond; or
3. Acknowledge that KCDA has received the request, and ask the requestor to provide clarification for a request that is unclear, while providing to the greatest extent possible a

reasonable estimate of the time KCDA will require to respond to the request if it is not clarified;  
or

4. Deny the request (although no request will be denied solely on the basis that the request is overbroad).

If the requestor fails to respond to KCDA's request for clarification within 30 days and the entire request is unclear, KCDA may close the request and not further respond to it. If the requestor fails to respond to KCDA's request for clarification within 30 days, and part of the request is unclear, KCDA will respond to the portion of the request that is clear and may close the remainder of the request. In unusual circumstances, KCDA may also seek a court order enjoining disclosure pursuant to law.

KCDA may deny a bot request that is one of multiple requests from the requestor within a twenty-four hour period if KCDA establishes that responding to the multiple bot requests would cause excessive interference with KCDA's other essential functions. KCDA may deem a request to be a bot request when KCDA reasonably believes the request was automatically generated by a computer program or script.

If KCDA does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the Public Records Officer to determine the reason for the failure to respond.

### **Purpose of Request**

KCDA may inquire into the purpose for which a record is requested and may use the answer to aid in gathering responsive records and determining whether the public has a legitimate interest in obtaining the information. However, unless the request seeks a list of individuals, a requester is not required to provide a purpose and KCDA may not decline to furnish the records solely because the requester refuses to furnish a purpose for the request.

### **Protecting Rights of Others**

In the event that the requested records contain information that may affect rights of others and may be arguably exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such others. The notice may make it possible for the others to contact the requestor and ask them to revise the request, or, if necessary, seek a court order to prevent or limit the disclosure. The notice to the affected persons may also include a copy of the request.

### **Records Exempt from Disclosure**

Some records are exempt from disclosure, in whole or in part, under a specific exemption contained in chapter 42.56 RCW or another statute which exempts or prohibits disclosure of specific information or records.

If KCDA believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state in writing in a withholding index or log the specific exemption (and statutory section) which applies and provide a brief explanation of how the exemption applies to the record being withheld.

If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted on the face of the record or in a withholding index or log.

### **List of Laws Exempting or Prohibiting Disclosure**

Pursuant to RCW 42.56.070(2), these rules contain a list of laws—other than those specifically listed in the Washington Public Records Act, Chapter 42.56 RCW—which may exempt disclosure of certain public records or portions of records. KCDA has identified the following laws:

- The Family Educational and Privacy Rights Act (FERPA), 20 USC § 1232g (regarding student educational records);
- Washington State Student Education Records Law, RCW 28A.605.030;
- The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et. seq. and 34 C.F.R. Part 300 (protecting the confidentiality of personally identifying information contained in student records of students with disabilities);
- Privileged communications and attorney work product, such as set forth in Chapter 5.60 RCW;
- Criminal Records Privacy Act (CRPA), Chapter 10.97, RCW;
- Health Insurance Portability and Accountability Act (HIPAA), 45 CFR parts 160-164 (regarding health care information privacy and security);
- Abuse of Children – Protection and Procedure, RCW 26.44.010; RCW 26.44.030(9);
- Public Law 98-24, Section 527 of the Public Health Services Act, 41 USC § 290dd-2 (confidentiality of alcohol and drug abuse patient records);
- United States and Washington Constitutional provisions including, but not limited to, the right of privacy and freedom of association.

In addition to these exemptions, RCW 42.56.070(8) prohibits providing access to lists of individuals requested for commercial purposes, and KCDA may not do so unless specifically authorized or directed by law.

The above list is for informational purposes only and is not intended to cover all possible exemptions from the public records law. The above list includes only exemptions which may be in addition to those set forth in Chapter 42.56 RCW. Under appropriate circumstances, KCDA may rely upon other legal exemptions which are not set forth above or contained within the public disclosure law.

### **Providing Electronic Records**

When a requestor requests records in an electronic format, the Public Records Officer or designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by KCDA and is generally commercially available, or in a format that is reasonably translatable from the format in which KCDA keeps the record.

### **Providing Records in Installments**

When the request is for a large number of records, the Public Records Officer or designee has the right to provide access for inspection and copying in installments. If, within thirty (30) days, the requestor fails to inspect or claim the entire set of records or one or more of the installments, the Public Records Officer or designee may stop searching for the remaining records and close the request as discussed further below.

### **Completion of Inspection**

When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer or designee will indicate that KCDA has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

### **Closing Withdrawn or Abandoned Request**

The requestor must claim or review the assembled records within thirty (30) days of KCDA's notification that the records are available for inspection or copying. KCDA should notify the requestor in writing of this requirement and inform the requestor that they should contact KCDA to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, KCDA may close the request and refile the assembled records.

When the requestor either withdraws the request or fails to claim or inspect the records or pay the deposit or final payment for requested copies, the Public Records Officer will close the request and indicate to the requestor that KCDA has closed the request.

### **Later Discovered Documents**

If, after KCDA has informed the requestor that it has provided all available records, KCDA becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

## **Costs of Providing Records, Waiver of Costs, and Agreements Regarding Costs**

### **Cost of Printed Copies and Mailing**

The cost of providing photocopies or printed copies of electronic records is 15 cents per page. Alternatively, if KCDA determines and documents that the fees allowed under this procedure are clearly equal to, or more than, two dollars, KCDA may instead charge a flat fee of two dollars to provide the records. If KCDA charges a flat fee for the first installment, KCDA will not charge an additional flat fee or a per page fee for any subsequent installments. Payment may be made by cash, check, or money order payable to KCDA.

KCDA may also charge actual costs of mailing, including the cost of the shipping container or envelope.

The Public Records Officer or designee may require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

If requested, KCDA will provide a summary of the applicable charges before any copies are made. The requestor will be allowed to revise the request in order to reduce the applicable charges.

### **Customized Service Charge**

A customized service charge may be imposed if KCDA estimates that the request would require the use of information technology expertise to prepare data compilations, or to provide customized electronic access services when such compilations and customized access services are not used by KCDA for other KCDA purposes. The customized service charge may reimburse KCDA up to the actual cost of providing the services in this paragraph.

KCDA will not assess a customized service charge unless it has notified the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate of the charge. The notice will also provide the requestor the opportunity to amend their request in order to avoid or reduce the cost of a customized service charge.

### **Cost for Electronic Records**

The cost for providing electronic records is as follows:

1. Ten cents per page for public records scanned into an electronic format or for the use of KCDA equipment to scan the records;
2. Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery;
3. Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of KCDA equipment to send the records electronically; and



4. The actual cost of any digital storage media or device provided by KCDA, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

If requested, KCDA will provide a summary of the applicable charges before charges are imposed under this procedure. The requestor will be allowed to revise the request in order to reduce the applicable charges.

KCDA will not impose charges for access to or downloading of records that KCDA routinely posts on its website prior to the receipt of a request, unless the requestor has specifically requested that KCDA provide copies of such records through other means.

### Deposits

Before beginning to make the copies, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor, including the cost of a customized service charge according to the provision above.

### Waiver

The Public Records Officer may waive any charge assessed for a request.

### **Review of Denials of Public Records**

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request. The Public Records Officer shall promptly provide the petition and any other relevant information to the KCDA Executive Director or designee. That person will consider the petition and either affirm or reverse the denial within two business days following KCDA's receipt of the petition, or within such other time to which KCDA and the requestor mutually agree.

### **Reporting Costs of Producing Public Records**

KCDA will provide the information specified in RCW Chapter 40.14 to the Joint Legislative Audit and Review Committee as required by law.

### **Retention of Public Records**

KCDA shall retain public records in compliance with Ch. 40.14 RCW, including the local government records retention schedules published by the Washington State Archives.