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**Applicability:** *NCRL Public Services*

## Public Records Request Policy

### Policy:

It is the policy of North Central Washington Libraries to provide information to persons wishing to request access to public records of NCW Libraries and establishes processes for both requesters and NCW Libraries staff that are designed to best assist members of the public in obtaining such access.

### Applicable RCWs:

RCW 42.56

### Purpose:

The purpose of this policy is to provide rules by which the North Central Washington Libraries, including all branches thereof ("NCW Libraries"), implements the provisions of RCW 42.56 for NCW Libraries' public records.

### Statement of Policy:

#### Section 1. Authority and Purpose.

The Washington State Public Records Act, Chapter 42.56 RCW (the "Act"), requires each government agency to make available for inspection and copying nonexempt public records in accordance with published rules. RCW 42.56.070(1). The Act further defines "public record" to include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Act, that exempts or prohibits the production of public records held by that agency.

#### Section 2. Interpretation and Construction.

The provisions of this Policy shall be liberally interpreted and construed to promote full access to NCW Libraries' public records in order to assure continuing public confidence in government: *provided*, that when making public records available, NCW Libraries shall prevent unreasonable invasions of privacy, shall protect public records from damage, loss, or disorganization, and shall prevent excessive interference with essential government functions.

## **Section 3. Public Records Index.**

1. NCW Libraries does hereby formally order that maintaining an index of public records pursuant to RCW 42.56.070 would be unduly burdensome for the following reasons:
  - a. The initial construction and subsequent maintenance of such an index would be a financial burden upon NCW Libraries.
  - b. NCW Libraries does not have sufficient staffing available to initially prepare and subsequently maintain such a comprehensive index.
2. NCW Libraries shall make available for public inspection and copying any index maintained by NCW Libraries for the District's use.

## **Section 4. Public Records Available - Public Records Officer.**

1. Public records of NCW Libraries shall be made available for public inspection and copying pursuant to this Policy, except as otherwise provided by law.
2. The Public Records Officer shall serve as the official point of contact for members of the public who request disclosure of public records. The Public Records Officer shall be responsible for implementation of and compliance with this Policy and the Public Records Act.
3. The Executive Assistant is the Public Records Officer for NCW Libraries. The Public Records Officer may delegate responsibilities as needed to process and complete any response to a public records request pursuant to this Policy.

## **Section 5. Public Records Requests - How Made.**

1. Public records may be inspected and/or copies may be obtained under the following procedures:
2. A request for public records shall be directed to the Public Records Officer for NCW Libraries. A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by NCW Libraries is not a valid request for identifiable records under this Policy or state law, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of NCW Libraries' records.
3. A request for public records shall be documented in writing and include the following information:
  - a. The requester's name, mailing address, and telephone number;
  - b. The date of the request;
  - c. A clear indication that the document is a "Public Records Request;"
  - d. Whether the request is to inspect the public records or for paper or electronic copies of public records, or both;
  - e. A clear description of the public records requested for inspection and/or copying and the office or department having custody of the public records;
  - f. If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of individuals for commercial purposes, with a specific reference to such law; and

- g. Whether the request is for printed or digital copies of the public record.
4. NCW Libraries shall develop and maintain forms to facilitate public record requests. Copies of any such forms shall be made available at NCW Libraries' administrative offices. Although use of NCW Libraries provided forms is preferred (and may be required by NCW Libraries for requesters that repeatedly fail to comply with this Policy), NCW Libraries may honor email or other written requests including the information contained in subsection A(2) above.
5. The Public Records Officer may accept oral requests for public records that contain the above information by telephone or in person. If the Public Records Officer accept such a request, the Public Records Officer will confirm receipt of the information and the substance of the request in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope of the request.
6. Records requests may only encompass records existing as of the date of the request. A request cannot be used to obtain copies of records not yet in existence.

## **Section 6. Response to Public Records Requests.**

1. The Public Records Officer shall, to the extent practicable, assist requesters in identifying the public records sought.
2. NCW Libraries is not obligated to allow inspection or provide a copy of a public record on demand.
3. Within five (5) business days after receiving a public records request, the Public Records Officer shall respond to the request in writing. The Public Records Officer shall make one or more of the following responses:
  - a. The request for inspection of public records is approved and indicating whether an appointment for inspection needs to be scheduled by the requester;
  - b. The request for copies of public records is approved and indicating that copies of requested records are enclosed with the response;
  - c. The request for copies or inspection of public records is approved, and indicating that the responsive records are available on or through NCW Libraries' website (with either a link or instructions to locate records online);
  - d. The request has been received by the Public Records Officer; indicating that additional time is needed to respond to the request; and, stating a reasonable estimate of the time required to respond;
  - e. The request has been received by the Public Records Officer and indicating the records shall be provided on a partial or installment basis as the records are identified, located, assembled and/or made ready for inspection or copying;
  - f. The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record;
  - g. There are no records responsive to the request; and/or
  - h. Notifying the requestor that the Public Records Officer does not understand the request and requesting that the requestor clarify the request to enable the Public Records Officer to respond to the same.
4. Any response providing an estimate of the additional time needed must be based upon criteria that can

be articulated and may be presented in the response estimating the additional time needed. For example, additional time may be needed under the following circumstances:

1. To request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone or email. If the clarification is made by telephone, the Public Records Officer will confirm the scope of the clarification in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope. If the requestor fails to timely clarify the request, the Public Records Officer will fulfill any portion of the request that is reasonably understood by the Public Records Officer, if possible, and cancel and close the remaining request;
  2. To locate and assemble the information requested;
  3. To notify third persons or agencies in the event the requested records contain information that may affect rights of others and may be exempt from production. Such notice should be given so as to make it possible for those other persons to contact the requester and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request or a statement of the request if no written request was received; or
  4. To determine whether any of the information requested is exempt from production and that a denial should be made as to all or part of the request.
5. When a request for public records is received that concerns a subject known to involve litigation that is pending, threatened or anticipated, the Public Records Officer shall promptly notify the NCW Libraries Attorney of the request. Copies of the request, all correspondence between the Public Records Officer and the requester, and copies of the public records provided to the requester shall be delivered to the NCW Libraries Attorney. The requester shall not be charged for copies delivered to the NCW Libraries Attorney.
6. If the Public Records Officer does not respond in writing within five business days of receipt of the request for disclosure, the requester should consider contacting the Public Records Officer to determine the reason for the failure to respond.

## **Section 7. Exempt Records.**

1. NCW Libraries hereby adopts the list of laws maintained by the Municipal Research Services Center of Washington (MRSC) as the list containing every law, other than those specifically set forth in the Act or interpretive case law, which NCW Libraries believes exempts or otherwise prohibits disclosure of specific records or information of NCW Libraries. Public records and information exempt from disclosure under the Act or any other law are exempt from disclosure under this Policy whether or not such exemption is on any list of exemptions adopted, published, or maintained by NCW Libraries.
2. If a record is exempt from production and should be withheld, the Public Records Officer will prepare an exemption log stating the specific exemption and providing a brief explanation of how the exemption applies to the record being withheld. If only a portion of a record is exempt from production, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, produce the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

## Section 8. Locating Responsive Records

1. A requestor must request an "identifiable record" or "class of records" before NCW Libraries must respond. An identifiable record is one that NCW Libraries staff can reasonably locate. The Act does not allow a requester to search through NCW Libraries files for records which cannot be reasonably identified or described to NCW Libraries.
2. Requests for information are not public records requests. NCW Libraries is not required to conduct legal research for a requester.
3. NCW Libraries is not required to create records to respond to a request. However, with prior approval of the requester, NCW Libraries may create a record if doing so would simplify the response for NCW Libraries and provide the requester with the records or information requested. NCW Libraries will determine, in its sole discretion, if a record may be created in order to facilitate a response to a public record request.
4. In order to prevent excessive interference with essential functions of NCW Libraries, NCW Libraries shall not search backup or security systems for copies of public records when the originals of such records have been identified, located and are available for inspection and/or copying.
5. When requests are made for electronic records that may be contained on personal devices, the Public Records Office and/or NCW Libraries staff or officials whose records have been requested may be required to complete a declaration confirming that they have located, retrieved and transferred records responsive to the request (if any) to the Public Records Officer. In the event a declaration is prepared, it will be provided with the responsive records (if any) or other correspondence from the Public Records Officer to complete the response to the request.

## Section 9. Production of Records

1. Public records may be inspected at NCW Libraries' administrative office during normal business hours when the administrative office is open to the public. However, NCW Libraries is not required to allow inspection immediately upon a demand.
2. The Public Records Officer may request that the person seeking to inspect public records schedule an appointment for inspection.
3. No member of the public may remove a document from the viewing area or disassemble or alter any document.
4. The requester shall indicate which documents he or she wishes NCW Libraries to copy or scan, if any, and provide payment for those copies or scans.
5. The requester must claim or review the assembled records within 30 days of the Public Records Officer's notification that the records are available for inspection or copying/scanning. The Public Records Officer will notify the requester, in writing, of this requirement and inform the requester that he or she should contact the Public Records Officer to make arrangements to claim or review the records. If the requester or a representative of the requester fails to claim or review the records within the 30-day period or make other arrangements, the Public Records Officer may close the request and re-file the assembled records.
6. When the request is for a large number of records, the Public Records Officer may provide access for inspection and copying in installments, if the Public Records Officer reasonably determines that it would be practical to provide the records in that manner. If, within 30 days, the requester fails to inspect the entire set of records or one or more of the installments, the Public Records Officer may stop searching for

the remaining records and close the request.

7. In the event a requester fails or refuses to timely inspect available records, to clarify a request within a requested time frame, to pay the deposit, or to make payment for any requested copies, the Public Records Officer will close the request and so inform the requester.
8. If, after the Public Records Officer has informed the requester that he or she has provided all available records, the Public Records Officer becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.

## **Section 10. Costs of Providing Copies of Public Records.**

1. No fee shall be charged for the inspection of public records. Fees shall be charged, as further set forth below, for any copies of records that are requested during an inspection.
2. No fee shall be charged for locating public documents and making them available for copying or inspection.
3. NCW Libraries has not calculated the actual cost to provide copies of public records as doing so would be unduly burdensome to NCW Libraries staff. As a result, NCW Libraries charges the maximum fees and charges authorized to be charged for providing paper and electronic copies of public records set forth in RCW 42.56.120, as existing or hereafter amended. NCW Libraries shall charge the following:
  - a. The maximum per page copy charge set forth in RCW 42.56.120(2)(b)(i), as existing or hereafter amended, for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of NCW Libraries' equipment to photocopy public records.
  - b. The maximum per page copy charge set forth in RCW 42.56.120(2)(b)(ii), as existing or hereafter amended, for public records scanned into an electronic format or for the use of NCW Libraries' equipment to scan the records.
  - c. The maximum per file charge set forth in RCW 42.56.120(2)(b)(iii), as existing or hereafter amended for each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery.
  - d. The maximum per gigabyte charge set forth in RCW 42.56.120(2)(b)(iv), as existing or hereafter amended, for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically.
  - e. Actual costs of any digital media or device provided by NCW Libraries and/or the actual costs of any container or envelope used to mail or provide copies to the requestor.
  - f. Actual costs to reproduce other non-standard size documents shall be charged.
  - g. Actual mailing costs shall be charged.
4. In addition to the charges imposed for providing copies of public records set forth above, NCW Libraries may include a customized service charge for responses to certain requests. A customized service charge may only be imposed if NCW Libraries determines that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by NCW Libraries for other NCW Libraries purposes.

- a. The customized service charge may reimburse NCW Libraries up to the actual cost of providing the services in this subsection.
  - b. NCWL may not assess a customized service charge unless the Public Records Officer, or designee, has notified the requester 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 cost of the charge. The notice also must provide the requester the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge.
5. The Public Records Officer is authorized to request a pre-payment deposit in an amount estimated to cover up to ten percent (10%) of the actual copying and mailing costs. If the deposit is not paid as requested, the Public Records Officer will cancel the request.
  6. To the extent any statute provides a specific charge for reproduction of records, NCW Libraries will charge the amount authorized pursuant to the other statutes rather than as provided under the act.
  7. NCW Libraries must receive payment, in full, for the costs and charges to provide the records, including any installment of records, as authorized by this chapter on or before the date the records are made available to the requestor. NCW Libraries will not mail or otherwise release records until payment has been received for the available records or installment of records. Failure to pay for or pick up any records or installment of records within 30 days of notice of availability of the records will result in cancellation of the request for public records.

## **Section 11. Electronic Records.**

1. NCW Libraries produces and maintains data in electronic records to maximize efficiency in fulfilling its basic public service functions. Electronic records are public records subject to disclosure under the Act and this Policy, unless exempt from disclosure under state or federal law. The process for requesting electronic public records is the same as for requesting paper public records.
2. If public records are requested in an electronic format, the Public Records Officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by NCW Libraries and is generally commercially available, or in a format that is reasonably translatable from the format in which NCW Libraries keeps the record. However, if an electronic record necessitates redaction due to an exemption, NCW Libraries is under no obligation to provide the redacted record electronically.
3. At the option of the Public Records Officer, and if acceptable to the requester, electronic records may be printed and provided in paper format. If the electronic record is large and/or not capable of being printed in an understandable format, then the electronic record may be provided in the digital format in which the record is maintained by NCW Libraries. NCW Libraries does not have the obligation to convert an electronic record to a digital or other format that is different than the format maintained by NCW Libraries.
4. Fees for providing electronic records in electronic form shall be based on the actual cost of the media used to provide the records. Overhead for information system acquisition and maintenance shall not be included in such fees. The fees for providing electronic records are set forth in Section 10, above.
5. NCW Libraries does not warrant or in any way guarantee the accuracy or completeness of electronic records.

## **Section 12. Review of Denials of Public Records Requests.**

1. Any person who objects to the denial of a request for a public record, including an alleged failure to produce responsive records, may petition NCW Libraries' Executive Director for prompt review of such decision by delivering a written request to NCW Libraries' Executive Director and including all written responses by the Public Records Officer denying the request.
2. NCW Libraries' Executive Director shall affirm, modify or reverse the denial in writing within seven (7) business days following receipt of the written request for review, or within such other time to which NCWL and the requester may mutually agree.
3. A requester's administrative remedies shall not be deemed exhausted until NCW Libraries' Executive Director has made a written decision or until the close of the seventh business day following receipt by NCW Libraries' Executive Director of the request for review of the public records request, whichever occurs first.
4. NCW Libraries shall be deemed to have made a final decision denying a request for public records only after a review conducted under this section has been completed, or a failure to timely review has occurred.

## **Section 13. Protection of Public Records.**

- A. The Public Records Officer shall, to the extent practicable, ensure that records requested are not misplaced, mistreated, or misfiled by members of the public during inspections and not removed from NCW Libraries. Original public records shall not be released to the public for any purpose.
- B. If a public record request is made at a time when a record exists, but the record is scheduled for destruction in the near future, the Public Records Officer shall direct that the record be retained until the request is resolved. NCW Libraries shall not destroy any record scheduled for destruction that may be responsive to a pending request for public records. Any such record may only be destroyed upon completion of the request.

## **Section 14. Copies of Policy Available to Public.**

Copies of this Policy and public records request forms shall be available to and provided to the public, without cost, at NCW Libraries' main office. Copies of this Policy may also be made available, without cost, on NCW Libraries' website.

By the enactment of this policy the Board of Trustees of North Central Washington Libraries is concurrently rescinding any prior policy or procedure within NCW Libraries that is either in conflict with or expansive of the matters addressed in this policy.

### **Attachments**

No Attachments

## Applicability

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NCRL, North Central Regional Library

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