

**KING COUNTY WATER DISTRICT NO. 90
KING COUNTY, WASHINGTON**

RESOLUTION NO. 1105

A RESOLUTION of the Board of Commissioners of King County Water District No. 90, King County, Washington, adopting a Public Records, Disclosure and Training Policy.

WHEREAS, the District desires to foster an open and transparent government;

WHEREAS, the District is subject to the requirements of the Public Records Act under 42.56 RCW, Washington Open Public Meetings Act under 42.30 RCW, and Washington Records Management and Retention under 40.14 RCW; and


WHEREAS, the District desires to institute policies and procedures to assist in complying with State law and its goal of an open and transparent government;


NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of King County Water District No. 90, King County, Washington, as follows:


SECTION 1: That the District adopts the Public Records, Disclosure and Training Policy attached hereto as Exhibit 1.

SECTION 2: Nothing herein shall be construed so as to limit the District's other statutory rights, including those rights set forth in RCW 57 et. al.;

ADOPTED by the Board of Commissioners of King County Water District No. 90, King County, Washington, at a regular open public meeting thereof on the 3rd day of August 2021.

 8/3/2021
Pete Eberle, President

 8/3/2021
Sam Amira, Vice-President

 8/3/2021
Al Materi, Secretary

RESOLUTION NO. 1105

SUBJECT: Adopting a Public Records, Disclosure and Training Policy

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Public Records and Disclosure Policy

PUBLIC RECORDS, DISCLOSURE AND TRAINING POLICY

A. SCOPE.

The District acknowledges that they are a public agency and are therefore subject to the following acts that have been designed to foster open and transparent government.

a. Applicable Laws.

- i. Washington Open Government Requirements (also known as the "Public Records Act" or "PRA"): Chapter 42.56 RCW;
- ii. Washington Open Public Meetings Act (OPMA): Chapter 42.30 RCW;
- iii. Washington Records Management and Retention: Chapter 40.14 RCW.

B. PUBLIC RECORDS ACT - RULES

1. AUTHORITY AND PURPOSE.

- a. **Public Records Act.** The Public Records Act, Chapter 42.56 RCW, requires the District to make identifiable, non-exempt public records available for inspection and copying upon request, and to publish rules of procedures to inform the public on how access to public records will be accomplished. The following Rules of Procedure ("Rules") for responding to public records/disclosure requests are hereby established.
- b. **Purpose of Rules.** The purpose of these Rules is to establish the procedures that the District will follow to provide full access to public records. These Rules provide information to persons wishing to request access to public records of the District and establish processes for both requesters and District staff that are designed to assist members of the public in obtaining such access.
- c. **Full Access.** The purpose of the PRA is to provide the public full access to information concerning the conduct of government, while balancing individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the PRA, the District will be guided by the provisions of the PRA describing its purposes and interpretation.

2. CONTACT INFORMATION – PUBLIC RECORDS OFFICER.

- a. **District Business Office.** The District is a municipal corporation of the State of Washington. The District's Business Office is located at 15606 SE 128th Street, Renton, Washington 98059.

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- b. **Public Records Officer.** The District's Public Records Officer is the General Manager or their designee. Any person wishing to inspect District public records, or seeking assistance in making such a request, should contact the Public Records Officer of the District:

King County Water District No. 90
Attention: Public Records Officer
15606 SE 128th Street
Renton, WA 98059
Phone: 425-255-9600
Fax: 425-277-4128
Website: www.kcwd90.com
Email: info@kcwd90.com

- c. **Duties and designee.** The Public Records Officer shall oversee compliance with the PRA and this Resolution, but other District staff members may also process requests. Therefore, in these Rules, the Public Records Officer includes any designee of the Public Records Officer.

3. **AVAILABILITY OF PUBLIC RECORDS.**

- a. **Business hours.** Public records shall be available for inspection and copying during the District's normal business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. District public records must be inspected at the address listed in Section 2.b, unless another location is designated for a particular request by the Public Records Officer.
- b. **Records index.** Due to the small size of District staff, maintaining a central index of District's records is unduly burdensome, costly, and would interfere with District operations due to the number and complexity of records generated as a result of the wide range of the District's activities. The District, however, maintains an index of resolutions adopted by the Board of Commissioners as well as an index of Meeting Minutes, which may be accessed by requesting them from the Public Records Officer.
- c. **Organization of records.** The District shall maintain its records in a reasonably organized manner. The District shall take reasonable actions to protect records from damage and disorganization. A requester shall not take District public records from the District's office, or from a location designated by the Public Records Officer, without the permission of the Public Records Officer.
- d. **Common Records.** The District provides common records such as agendas, meeting minutes, and current resolutions on the District's website at www.kcwd90.com. Requestors seeking these types of records will be directed to the District's website.

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- e. **Records request - form.** Any person wishing to inspect or copy public records of the District shall make the request in writing on the District request form, a copy of which is attached to this policy and incorporated herein by this reference ("Record Request Form"), or by letter, or e-mail addressed to the Public Records Officer, and include the following information:
- (1) Name of requester;
 - (2) Address of requester;
 - (3) Other contact information, including telephone number and any e-mail address;
 - (4) Identification of the requested public records adequate for the Public Records Officer to locate the records; and
 - (5) The date and time of day of the request.
- f. **Notice of request.** A requester must provide the District with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requester should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.
- g. **Request for copies.** If the requester wishes to have copies of the records made instead of simply inspecting them, the requester should so indicate and make arrangements to pay for copies of the records or to pay a deposit as required by the District.
- h. **Other form.** The Public Records Officer may accept, but shall not be required to accept, requests for public records that contain the above information by telephone or in person. If the Public Records Officer accepts such a request, the Officer shall confirm receipt of the information and the substance of the request in writing.
- i. **Purpose of request.** A requester need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive documents, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the Public Records Officer may ask the requester if they intend to use the records for a commercial purpose. The District is prohibited by statute from disclosing lists of individuals for commercial purposes. RCW 42.56.070(8).

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4. PROCESSING OF PUBLIC RECORDS REQUESTS — GENERAL.

- a. **Providing access and assistance.** These Rules identify how the District will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the District, provide fullest assistance to requesters, and provide the most timely possible action on public records requests. All assistance necessary to help requesters locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the District.
- b. **Order of processing requests.** The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- c. **Acknowledging and fulfilling requests.** Within five (5) business days of receipt of the request, the Public Records Officer will do one (1) or more of the following:
 - (1) Provide the records available for inspection or copying;
 - (2) Provide an internet address and link on the District's website to the specific records requested;
 - (3) Acknowledge receipt of the request and provide a reasonable estimate of time the District will require to respond to the request; or
 - (4) Deny the request.
- d. **Clarification.** If the request is unclear or does not sufficiently identify the requested records, the District may ask the requester to clarify what information the requester is seeking. Such clarification may be requested and provided by telephone. The Public Records Officer may revise the estimate of when records will be available. If the requester fails to clarify the request, the District need not respond to it.
- e. **Failure to respond.** If the District does not respond in writing within five (5) business days of receipt of the request for disclosure, the requester should contact the Public Records Officer to determine the reason for the failure to respond.
- f. **Third-party notice.** If the requested records contain information that may affect the rights of others and may be exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. 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 shall include a copy of the request.

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- g. **Redaction.** Some records are exempt from disclosure, in whole or in part. If the District believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is 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 non-exempt portions, and indicate to the requester why portions of the record are being redacted.
- h. **Access to and preserving records.** The District shall promptly provide space to inspect public records. No member of the public may remove public records from the viewing area or disassemble or alter any public record. The requester shall indicate which records they wish to have copied using a mutually agreed upon non-permanent method of marking the desired record. If the requester cannot access the records made available on the District's website, the District shall allow the requester to view the records using a District computer designated for the public inspection of records.
- i. **Consequence of failure to review request.** The requester must claim or review the assembled records within thirty (30) days of the District notification to the requester that the records are available for inspection or copying. The District will notify the requester in writing of this requirement, and that the requester must contact the District 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 thirty-day period or make other arrangements, the District may close the request and re-file the assembled records.
- j. **Copying request.** After inspection is complete, the Public Records Officer shall make the requested copies or arrange for copying.
- k. **Installments.** If the request is for a large number of public records, the Public Records Officer shall 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 way. If, within thirty (30) days, the requester fails to inspect the entire set of records or one (1) or more of the installments, the Public Records Officer shall no longer be obligated to fulfill the balance of the request, and shall stop searching for the remaining records and close the request.
- l. **Completion of search.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer shall indicate that the District has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

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- m. **Personal Computer and Shared devices.** District work performed on personal computers, smart phones and tablets is subject to the PRA. It is District policy that work performed at home be completed by VPN or other direct connection, so that the work is saved on the District's server. Furthermore, communication by smart phone must be done via email so that copies of all communications are kept on the District's server. The District does not authorize District business to be communicated by text message. Use of text messaging is limited to notifications only, such as "I am running late, I will meet you at noon, or please check your email." No substantive work information will be communicated by text messaging.
- n. **Closing request.** When the requester either withdraws the request or fails to fulfill their obligations to inspect the records or pay the deposit or final payment for the requested copies, the Public Records Officer shall close the request and indicate to the requester that the District has closed the request.
- o. **Later discovered records.** If, after the District has informed the requester that it has provided all available records, the District becomes aware of additional public records existing at the time of the request that are responsive to the request, it shall promptly inform the requester of the additional public records and make them available for inspection on an expedited basis.
- p. **Consequence of disclosing record in error.** The District and its officials and employees are not liable for loss or damage based on release of a public record if the District official or employee acted in good faith in attempting to comply with the PRA.
- q. **No duty to create records.** The District is not obligated to create a new record to satisfy a records request; however, the District may, in its discretion, create such a new record to fulfill the request where it may be easier for the District to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.
- r. **No duty to supplement responses.** The District is not obligated to hold current records requests open to respond to requests for District public records that may be created in the future. If a public record is created or comes into the possession of the District after a record request has already been closed, it will not be made available to the requestor.

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5. PROCESSING OF PUBLIC RECORDS REQUESTS - ELECTRONIC RECORDS.

- a. **Processing electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- b. **Format.** When a requester requests records in an electronic format, the Public Records Officer shall provide the non-exempt records or portions of such records that are reasonably locatable in an electronic format that is used by the District and is generally commercially available. The District has no duty to scan paper copies of records into electronic documents. If the District elects to do so, however, it may charge for staff time to scan paper records into electronic records pursuant to WAC 44-14-07001.

6. EXEMPTIONS FROM DISCLOSURE - EXEMPTIONS LISTED FOR INFORMATIONAL PURPOSES.

The PRA provides that a number of categories of public records are exempt from public inspection and copying. In addition, the PRA provides that certain public records may be exempt from disclosure if any other statute or law exempts or prohibits disclosure. For informational purposes only, the District has set forth a list of exemptions below. This list is not inclusive or exhaustive of all exemptions. The District's failure to list an exemption below shall not affect the efficacy of any exemption. RCW 42.56.070(2). Requesters should be aware that the following exemptions may restrict the availability of inspection or copying of some public records, or portions thereof:

- (1) **Personal information:** Personal information in files maintained for employees and appointed or elected officials of the District to the extent disclosure would violate their right to privacy; and financial information including credit card numbers, debit card numbers, electronic check numbers, card expiration dates, and bank or other financial account numbers. RCW 42.56.230.
- (2) **Employment and licensing:** Applications for public employment and related materials submitted with respect to an applicant; examination information (test questions, scoring keys and other data used to administer a license, employment or academic examination); and personal contact information in files maintained for District employees or volunteers, and their dependents (address, telephone number, email address, social security number, emergency contacts and date of birth). RCW 42.56.250.
- (3) **Real estate appraisals:** Real estate appraisals made for or by the District relative to the acquisition or sale of property until the project is abandoned or sold, except disclosure may not be denied for more than three (3) years after the appraisal. RCW 42.56.260.

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(4) **Financial, commercial and proprietary information:** Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by the District within five (5) years of the request for disclosure when disclosure would produce private gain and public loss. RCW 42.56.270.

(5) **Preliminary drafts, notes, recommendations and interagency memorandums:** Records in which opinions are expressed or policies formulated or recommended, except if the opinion or policy is implemented or the record is publicly cited in connection with District action. RCW 42.56.280.

(6) **Work product:** Records which are relevant to a controversy to which the District is a party but which records would not be available to another party under the rules of pretrial discovery for Superior Courts. RCW 42.56.290.

(7) **Public utilities information:** Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095; and records containing the residential addresses and residential telephone numbers of District customers. RCW 42.56.330.

(8) **Security:** Records assembled or prepared to prevent, mitigate, or respond to terrorist acts, the disclosure of which would have a substantial likelihood of threatening public safety; specific and unique vulnerability assessments or emergency response plans and records containing information regarding the infrastructure and security of computer and telecommunications networks. RCW 42.56.420.

(9) **Attorney-client privileged information:** Records reflecting communications transmitted in confidence between the District and its attorney for the purposes of legal advice. RCW 42.56.070; RCW 5.60.060(2)(a).

(10) **Medical records:** Medical records in employee personnel files. Chapter 70.02 RCW.

(11) **Trade secrets:** Records containing trade secrets of businesses the District regulates. Chapter 19.108 RCW.

7. **COSTS OF PROVIDING COPIES OF PUBLIC RECORDS.**

a. **Location/Inspection of records.** There is no fee to locate or inspect public records.

b. **Standard copies & Non-Standard copies.** The charge for standard (8-1/2" x 11") and legal (8-1/2" x 14") black-and-white photocopies shall be twenty cents per page. The District will periodically update the District's "Records Request Form," which provides a fee schedule for the copying of records, including those in non-standard, electronic or other formats or media.

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- c. **Off-site vendor copying.** If the District has to pay an off-site vendor for copying public records in non-standard formats, including but not limited to photographs, scanning, blueprints or audio recordings, the requester shall pay the actual costs of such duplication. If the Public Records Officer determines it is reasonable to send a request to an off-site vendor for copying, the District may: (1) arrange for the requester to pay the vendor directly for copies made; or (2) charge the requester the actual amount charged by the off-site vendor to the District for the copies made.
- d. **Deposit.** Before beginning to make the copies, the Public Records Officer may require a deposit of up to ten percent (10%) of the estimated cost of copying all the public records selected by the requester. The Public Records Officer may also 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. The District shall not charge sales tax when it makes copies of public records, unless required by law to do so.
- e. **Mail.** The District shall also charge actual costs of mailing, including postage and the cost of the shipping container.
- f. **Certified copies.** When the request is for a certified copy of public records, an additional charge of One Dollar (\$1.00) may be applied to cover the additional expense and time required for certification.
- g. **Payment methods.** The requester shall pay for copies of public records by cash, check, or money order payable to the District.

8. **REVIEW OF DENIALS OF PUBLIC RECORDS.**

- a. **Petition.** Promptly after initial denial or partial denial of a records request, the requester may petition in writing (including e-mail) 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 denying the request.
- b. **District response to petition.** The Public Records Officer shall promptly provide the petition and any other relevant information to the District attorney. The District attorney shall promptly consider the petition and provide the requester a written determination of whether the record is exempt. Nothing in this section shall be deemed to establish an attorney-client relationship between the District attorney and the requester.

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- c. **Judicial review.** The requester may obtain court review of denials of public records requests pursuant to RCW 42.56.550 after the initial denial, regardless of any internal administrative appeal.

C. WASHINGTON RECORDS MANAGEMENT AND RETENTION.

1. RETENTION OF RECORDS.

- a. **Washington Records Management and Retention:** Chapter 40.14 RCW. The District shall retain its records in accordance with retention schedules approved by the Washington Secretary of State.
 - i. Including the: Local Government Common Records Retention Schedule (CORE) and the Utility Services Record Retention schedule, Version 1.4 (February 2019).
- b. Public records may not be destroyed per retention schedule if a public records request or actual or anticipated litigation is pending.

D. OPEN GOVERNMENT TRAINING ACT (ESB 5964).

1. TRAINING ON PUBLIC RECORD LAWS

These Acts are designed to foster open government by making open government education a recognized obligation of public service. The PRA is also designed to reduce liability by educating agency officials and staff on the laws that govern them, in order to achieve greater compliance with those laws.

- a. **Applicable Laws.** Washington Open Government Requirements: RCW 42.56; Washington Open Public Meetings Act (OPMA): RCW 42.30; and Washington Records Management and Retention: RCW 40.14.
- b. **Required Training.** Effective July 1, 2014, the Open Government Training Act (ESB 5964) requires District officials and agency records officers to receive training. District Office Staff, who are key in maintaining records and responding to public information requests, will receive the same or higher level of training as District officials. The District provides training on the basics of the Open Government Requirements to all staff at regular staff meetings, with refresher training scheduled every four (4) years or within ninety (90) days for new employees.
- c. **Schedule:** Effective July 1, 2014, District Officers must receive this training no later than ninety (90) days after they take their oath of office or assume their duties. They can take the training before they are sworn in or assume their duties of office. They must also receive “refresher” training at intervals of no more than four (4) years.

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- d. **Training to include.** Training related to open and transparent government for District officials and necessary staff includes:
- i. Open public meetings training should cover the basics of the OPMA. The PRA does not specify training requirement details. However, for example, the training could cover the purpose of the PRA, requirements for regular and special meetings, public notice, executive sessions, and penalties. The training may also include the requirement to maintain minutes and have them open for public inspection, as described in another law at RCW 42.32.035 The Attorney General's Office online OPMA video and OPMA PowerPoint cover the basics of the OPMA and satisfy this requirement.
 - ii. Training on the Public Records PRA should cover the basics of the PRA at RCW 42.56. Training must be consistent with the Attorney General's Office Model Rules. The PRA does not specify training requirement details. However, for example, the training could cover the purpose of the PRA, what is a "public record," basic public records procedures, how an agency responds to requests, searches, what an agency must do before withholding information in a record from the public, and penalties. The training might also cover an agency's particular PRA procedures set out in its rules or policies. The Attorney General's Office online PRA video and PRA PowerPoint cover the basics of the PRA and satisfy this requirement.
 - iii. Record retention training should cover the basics of RCW 40.14. The PRA does not specify training requirement details. However, for example, the training could cover basic retention requirements, what is a records retention schedule, and a brief description of what schedule(s) apply to the agency. For board members, it may also specifically cover how to manage emails and other electronic records. For a records officer, the training may be much more detailed, addressing more specifically the agency's records retention schedules and categories of records. The Washington State Archives records retention training covers the basics of records retention and satisfies this requirement.
- e. **Training provided.** Training related to open and transparent government for District officials and necessary staff can be completed in-house, internet-based training including webinars, training provided by other public agencies, or by an outside trainer. Completed training is documented by District staff and maintained in employee files.