

Standard

1. Authority

The Emergency Management Organization Interlocal Agreement authorizes the Board of Directors of Franklin County Emergency Management to issue rules or administrative regulations not inconsistent with general law, outlining the general procedure for the administration of Franklin County Emergency Management (FCEM) under the Board of Directors of Franklin County Emergency Management's jurisdiction. Further, FCEM is required by Chapter [42.56 RCW](#) to adopt and enforce reasonable rules and regulations consistent with the intent of the Public Records Act.

2. Policy

Franklin County Emergency Management (FCEM) is committed to transparency in government. FCEM will provide citizens with the fullest assistance when requesting access to public records. FCEM's obligations under Chapter [42.56 RCW](#) will be met in a timely and professional manner.

3. Purpose

Washington law requires each local agency to make available for inspection and copying public records which are not specifically exempted by statute. As directed by [RCW 42.56.100](#), the purpose of this policy is to establish the procedures FCEM will follow to provide full access to public records not specifically exempted by state or federal law. This policy will ensure that requestors receive the fullest assistance while preventing excessive interference with other essential functions of FCEM and unreasonable disruption to the operations of the agency.

4. Application

This policy applies to all requests for public records made pursuant to Chapter [42.56 RCW](#), and supersedes prior versions of FCEM's Public Records Act Disclosure Policy. This policy is subject to revision at any time.

Practice

1. Definitions

Listed below are terms defined by the Public Records Act or regulations relating thereto. Any term not defined by the Public Records Act (sometimes the "Act") or this policy shall

be given its common meaning.

- a. "Agency" includes all state and local agencies. A "local agency" includes counties, cities, towns, municipal corporations . . . or any office, department, division, board, commission, or agency thereof. FCEM is an agency governed by the provisions of Chapter [42.56 RCW](#).
- b. "Identifiable record" is a record that is existing at the time of the request and which staff can reasonably locate. For purposes of electronic records, the "identifiable record" standard under the Act requires FCEM to provide nonexempt "reasonably locatable" records.
- c. "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.
- d. "Public Record" includes 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 any state or local agency regardless of physical form or characteristics. This definition does not include records that are not otherwise required to be retained by the agency and are by volunteers who:
 - i. Do not serve in an administrative capacity at FCEM;
 - ii. Have not been appointed by the agency to an agency board, commission, or internship; and
 - iii. Do not have a supervisory role or delegated agency authority.
- e. "Reasonably locatable" electronic records are those electronic records that can be located with typical search features and organizing methods contained in FCEM's current software.
- f. "Relating to the conduct of government" is a threshold determination made to decide if a record is otherwise a "public record." To be a "public record," a document must relate to the "conduct of government or the performance of any governmental or proprietary function." [RCW 42.56.010\(3\)](#). Almost all records held by FCEM relate to the conduct of government; however, some do not. A purely personal record having absolutely no relation to the conduct of government is not a "public record." However, a purely personal record might become a public record if it is relied upon (i.e., used) by FCEM for a governmental purpose.
- g. "Writing" means handwriting, typewriting, printing, photostatting, photographing, and every other means of recording any form of communication or representation

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including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

2. Public Records Requests - General Provisions.

- a. Both requestors and agencies have responsibilities under the Public Records Act. The public records process can function properly only when both parties perform their respective responsibilities. FCEM has a duty to provide timely access to nonexempt public records. A requestor has a duty to give fair notice that he or she is making a records request, request identifiable records, follow FCEM's reasonable procedures, inspect the assembled records or pay for the copies, and be respectful to agency staff. Both FCEM and the requestor have a responsibility to communicate with each other when issues arise concerning a request. See [WAC 44-14-04001](#).
- b. Employees are not required to respond to a request for records if the request is not made pursuant to this policy. However, if a public record is readily accessible and can be easily provided at the time the request is made without need for further analysis regarding release, an employee may release the record without sending the requestor to FCEM's public records request process.
- c. Public records which are prepared for the purpose of making them available to the public may be provided without completing a formal public records request.
- d. FCEM must have reasonable (fair) notice that a request is for public records. A requestor must give FCEM reasonable notice that the request is being made pursuant to the Public Records Act, and the request should not be buried within another document.
- e. Requests are subject to the records that exist as of the date the request is submitted. Records that come into existence at any time after the request is made, including those which may come into existence while the request is open, will not be provided (See Section 9).

3. Organization/Protection of Public Records. FCEM will maintain its records in a reasonably organized manner consistent with available resources. Pursuant to [RCW 42.56.070\(4\)](#), FCEM has determined that development and maintenance of a current index of all public records as required by [RCW 42.56.070\(3\)](#) is unduly burdensome. FCEM is a small grant funded office and does not have the resources available to meet the standards of [RCW 42.56.070\(3\)](#).

4. Records as a Matter of Right. Under state and federal law, certain entities and/or individuals are granted access, as a matter of legal right, to certain records held by

FCEM. When an individual and/or an entity wishes to exercise a statutory right to access records held by FCEM, that request is made outside the scope of the Public Records Act. Learn how to submit a request for records as a matter of right on FCEM's website at <https://franklinem.org/prr/>.

- 5. Making a Request for Public Records.** A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records. The Act does not allow a requestor nor require an agency to search through agency files for records that cannot be reasonably identified or described to the agency. A variety of public records are available on FCEM's website at <https://franklinem.org/prr/>. Requestors are encouraged to view the public records currently available on the website at no charge prior to submitting a records request.
- a. Requestors are strongly encouraged to use the applicable public records request forms available at the FCEM website (<https://franklinem.org/prr/>). This approach fosters the important communication process under the Act between the requestor and FCEM, and helps both the requestor and FCEM by enabling FCEM to more promptly identify the inquiry as a public records request, to timely confirm its receipt with the requestor, to promptly seek clarification from the requestor if needed, and to otherwise begin processing FCEM's response to the request.
 - b. Requests may be made in person during normal business hours, in writing by mail, or electronically (Section g. below). FCEM does not accept public records requests submitted by telephone or fax.
 - c. The request should include the following information:
 - Date and time of the request;
 - Name, mailing address, telephone number and email address of requestor;
 - Adequate identification of the requested public record(s);
 - Whether the requestor is requesting copies (paper or electronic) or prefers to inspect records onsite (by appointment).
 - d. When a request uses an inexact phrase such as all records "relating to" a topic, FCEM will interpret the request to be for records which directly and fairly address the topic. In the alternative, FCEM may seek clarification or explain to the requestor how FCEM is interpreting the request.
 - e. If a requestor refuses to provide sufficient contact information, FCEM will respond to the request to the extent feasible and consistent with the law. Failure to provide adequate contact information may hinder FCEM's ability to provide the fullest assistance.
 - f. Requests submitted by mail will be deemed received on the date delivered to the FCEM Office and will be date-stamped. Requests submitted electronically after the close of business will be deemed received on the next business day.

- g. Request by Record – Where to Submit.

FCEM Records

<p>FCEM Records. Requests for records are made as follows:</p> <p>In Person: 1011 E. Ainsworth St. Pasco, WA 99301</p> <p>By Mail: FCEM Public Records Officer 1011 E. Ainsworth St. Pasco, WA 99301</p>	<p>Online: https://franklinem.org/prr/ (to submit electronically)</p> <p>On the website, go to: <i>Making a Public Records Request paragraph</i> → Select "FCEM Public Records Request Form – printable" OR "FCEM Public Records Request Form – Fillable".</p> <p>Complete one of the forms and email to: fc-ecc@franklincountywa.gov</p>
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6. Processing Public Records Requests.

- a. Upon receipt of a request, FCEM will assign a tracking number.
- b. The Public Records Officer or designee will evaluate the request according to the nature of the request, anticipated volume, and availability of requested records in the context of other pending public records requests to determine the agency's approach to production.
- c. Within five (5) business days¹ of receipt of a request, FCEM will respond by doing one or more of the following:
 - Make the records available in one of the following ways:
 - If copies are available on FCEM's website, provide an internet address and link on the website to specific records requested;
 - If copies (paper or electronic) are requested and applicable fees have been paid, provide the copies to the requestor in the manner requested; or
 - Schedule an appointment with the requestor to inspect records onsite (See Section 15).
 - Acknowledge receipt of the request and advise that no responsive records are available if no records are located after a reasonable and diligent search. The notice to the requestor will explain, in general terms, the locations searched.

¹ In computing the 5-day response time, the day on which the request is received does not count as one of the five (5) business days. Holidays and weekends are also excluded from the calculation of time. RCW 1.12.040.

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- Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available. The Public Records Officer or designee may revise the estimate of when records will be available if necessary; or
 - Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear in whole or in part, and provide, to the greatest extent possible, a reasonable estimate of time FCEM will require to respond to the request if it is not clarified.
 - Deny the request consistent with the requirements of this policy.
- d. Failure to Respond. If FCEM does not respond in writing within five (5) 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.
- e. Clarification Requested. If, after clarification is requested by FCEM on a request that is wholly unclear, a requestor fails to provide the requested clarification or fails to describe an identifiable public record with adequate specificity, such that it can be located, FCEM will deem the request abandoned and withdrawn, and will take no further action. Clarification must be received within ten (10) calendar days of the date the request for clarification is sent by FCEM. Any clarification obtained verbally will be memorialized in writing.
- f. Third Party Notice - Discretionary. In the event the requested records contain information that may affect the rights of other persons in interest and/or may be exempt from disclosure, FCEM may, prior to providing the records, give notice to such other persons in interest whose rights may be affected by disclosure. The notice shall include a copy of the public records request. Third parties shall be given no less than twenty (20) business days to obtain and provide to FCEM a court order preventing or limiting disclosure.
- g. Third Party Notice – Mandatory. Consistent with [RCW 42.56.250\(12\)](#), upon receipt of a request for information located *exclusively* in an employee's **personnel, payroll, supervisor, or training file**, FCEM will provide notice to the employee, to any union representing the employee, and to the requestor. The notice will state:
- The date of the request;
 - The nature of the requested record relating to the employee;
 - That the agency will release any information in the record which is not exempt from the disclosure requirements of [Ch. 42.56 RCW](#) at least ten (10) business days from the date the notice is made; and
 - That the employee may seek to enjoin release of the records under [RCW 42.56.540](#).

For purposes of the mandatory third party notice required under [RCW 42.56.250\(12\)](#), items located *exclusively* in an employee's personnel file include:

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1) cover letter/resume/application for employment; 2) personnel action forms (PAFs); 3) performance evaluations; 4) disciplinary actions and supporting documentation; and 5) termination documentation.

- h. Records Exempt from Public Disclosure. FCEM shall make available for public inspection and copying all public records, unless the record or specific information contained within the record is exempt or prohibited from disclosure by state or federal law. If any record, in whole or in part, is determined to be exempt from disclosure, FCEM shall provide the requestor with a written statement of the specific exemption authorizing the withholding of the record, in whole or in part, and shall provide a brief explanation of how the exemption applies to the record, or a portion thereof, withheld. [RCW 42.56.070](#).
- i. The Public Records Act provides that a number of record types are exempt from public inspection and copying. See [RCW 42.56.210 – 692](#).
 - ii. Other statutes outside the Public Records Act may also prohibit or exempt disclosure of certain records or information. [RCW 42.56.070\(1\)](#). A current list of other statutes that prohibit or exempt disclosure is incorporated into this policy as **Exhibit A**, and may be updated periodically. FCEM's failure to list all possible bases for exemption in **Exhibit A** shall not affect FCEM's ability to rely on such an exemption.
 - iii. By law, FCEM is prohibited from disclosing lists of individuals requested for commercial purposes. [RCW 42.56.070\(8\)](#). Requestors who submit a public records request for a list of individuals will be required to execute and return a Commercial Purposes Declaration confirming that the list will not be used for commercial purposes.
- i. Providing Records in Installments. When a request is for a large number of records, or records that require extensive review prior to disclosure, FCEM may make the records available on an installment basis.
- i. If FCEM elects to make records available on a partial or installment basis, FCEM may charge for each installment of the request as it is provided. [RCW 42.56.120](#).
 - ii. If, within fifteen (15) business days of written notice that records are available for release or inspection, the requestor fails to inspect or pay for the records, FCEM will consider the request abandoned and will discontinue fulfilling the balance of the request. Notice of closure will be sent to the requestor.
- j. Searching for Records. FCEM will conduct an objectively reasonable search for responsive records. The burden on FCEM is to diligently search for records in locations where they are reasonably calculated to be located. FCEM officials and employees are expected to promptly respond to inquiries about responsive records

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from the Public Records Officer or designee. In instances where FCEM never prepared, owned, used or retained a particular record, FCEM is not required to go outside its own collection of public records to respond to a request.

- k. Later Discovered Records. If FCEM becomes aware of the existence of records responsive to a request which were not initially provided, FCEM will notify the requestor in writing, provide a brief explanation of the circumstances, and provide the nonexempt records with a written explanation of any redacted or withheld records.
- 7. No Duty to Create Records.** FCEM is not obligated to answer written questions, create new public records, or provide a record in a format different from the original format of the record; however, FCEM may, in its discretion, offer to create such a record where doing so proves to be the most logical approach to fulfilling the request.
- 8. No Duty to Explain Records.** FCEM is required to make records available (i.e., provide access to records) but has no duty to explain the meaning of public records.
- 9. No Duty to Supplement Responses.** FCEM is not obligated to hold current records requests open to respond to requests for records that may be created in the future. A new request must be made to obtain later-created public records.
- 10. Copyrighted Material.** Certain documents held by FCEM are protected by statutory or common law copyright. If a public records request involves a record that is copyright-protected, the requestor must sign and return a Fair Use Doctrine Declaration declaring the requestor's intent to use the record for purposes expressly allowed by law. Failure to execute the Fair Use Doctrine Declaration will result in the copyright-protected record(s) being made available for in-person inspection only without the opportunity for copying.
- 11. Managing Multiple Requests.** In order to provide the fullest assistance to all requestors, to prevent excessive interference with other essential FCEM functions, and to ensure that appropriate time and resources are fairly allocated among all requests, FCEM may determine to process multiple open requests from the same requestor by either:
 - a. Processing each request individually and independently of the other(s); or
 - b. Processing requests in the order received. Under this approach, the earliest request received will be the first request completed, and processing will not begin on any subsequent request(s) from the same requestor until the immediately previous request is complete.
- 12. Fees; Statutory Limits.**
 - a. FCEM finds that calculating the actual costs associated with providing public

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records is unduly burdensome for the following reasons: 1) quantifying certain necessary resources (ink, electricity, “wear and tear” on equipment) is inherently difficult; 2) funds were not allocated for performing a study to calculate actual costs, and FCEM’s established priorities do not include funding for this particular effort; 3) staff resources are insufficient to perform a study and to calculate actual costs; and 4) a study would interfere with and disrupt essential FCEM functions.

- b. The fees for copies of public records are as stated in FCEM’s current fee schedule. Fees are consistent with the amounts established by state law. FCEM may also charge for the actual cost of any digital storage media or device, the actual cost of any container or envelope used for mailing, and the actual cost of postage or delivery charges. No fee shall be charged for the inspection of public records or for locating public records and making them available for inspection. Payment of fees assessed is required prior to release of records. [RCW 42.56.120](#).
- c. If requested, FCEM will provide a summary of applicable charges before providing any responsive records.
- d. Payment may be made by credit/debit card (Visa/Mastercard), cash, check, or money order payable to FCEM of Richland.

13. Customized Service Charges. FCEM may impose a customized service charge if FCEM determines that the records request requires 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 FCEM for other agency purposes. Requestors will be notified in advance of the estimated cost, along with an explanation of why the customized service charge applies and a description of the specific expertise required, so that the request may be amended to avoid or reduce cost, if desired.

14. Deposit. FCEM may require a deposit of up to ten percent (10%) of the estimated cost of providing records as provided herein, to include customized service charges, if any.

15. Availability of Public Records.

- a. Requestors may choose to inspect records in person instead of receiving electronic or paper copies. Public records are available for inspection and copying during business hours of **(8:00 a.m. to 4:00 p.m.)** excluding legal holidays. Records must be inspected at the FCEM Office, and arrangements for inspection and/or copying must be made in advance.
- b. Inspection of public records must occur in a non-disruptive manner. Space in the FCEM Office will be made available to any person for the inspection of public records except when and to the extent that such action would unreasonably disrupt the operations of the agency. [RCW 42.56.080](#). FCEM will take reasonable

precautions to prevent a requestor from being unreasonably disruptive or disrespectful to staff.

- c. The requestor shall indicate which documents he or she wishes to copy. After inspection is complete, the Public Records Officer or designee shall make the requested copies or arrange for copying. The requestor must pay for the copies in accordance with the established fee schedule.
- d. No member of the public may disassemble or alter any public record or remove it from the viewing area.
- e. FCEM may have one or more employees present to observe the inspection or copying of records by the requestor to ensure that records and equipment are handled appropriately.

16. Closing Withdrawn or Abandoned Requests. If the requestor withdraws the request, fails to clarify a request when asked, fails to make a required deposit, or fails to timely inspect or pay for the records requested or any installment thereof, FCEM will close the request and notify the requestor that the request has been closed and that no further action will be taken. Closure of the request and the circumstances that led to closure will be documented. Other public records requests will be processed ahead of any subsequent request by the same person for the same or almost identical records, which will be processed as a new request.

17. Denial of Request Due to Exemption.

- a. All denials of requests for public records, whether in whole or in part, will be accompanied by documentation providing:
 - 1. The statutory basis for the denial or redaction; and
 - 2. A brief explanation of how the exemption or redaction basis applies to the record being withheld or redacted.
- b. When more than one record type is being exempted or redacted, a redaction/exemption log is required. FCEM may satisfy this obligation through use of a coding method, which involves identifying a code for each statutory exemption, placing that code on the redacted information, and attaching a list of codes and their corresponding brief explanations with FCEM's records response. [WAC 44-14-04004\(5\)\(b\)](#).
- c. If a single record is being withheld, or a compilation of records is categorically exempt from public disclosure, the statutory basis and brief explanation required by this section may be provided in letter form.

18. Retention and Destruction of Public Records.

- a. The Washington State Archivist has developed retention schedules for local government records including emails and electronic records. Records of FCEM are retained and dispositioned (destroyed; transferred) consistent with the retention schedules. If a public records request is made at a time when a record exists, but is scheduled for destruction in the near future, the record will be preserved until such time as the public records request is completed and closed.
- b. Back-up copies of public records generated and maintained by FCEM's IT Staff are for disaster recovery only. Once FCEM determines to disposition a public record by destruction or transfer, the record is considered to no longer be held by the agency, regardless of whether it exists on a back-up copy generated by IT. To avoid interference with essential government operations, and to preserve organization of government records, back-up copies will not be examined in response to a public records request.

19. Administrative Appeal of Public Records Response.

- a. Any person who objects to denial or redaction of one or more public records or the closure of a request may petition for prompt review of such action by tendering a written appeal to FCEM. The written appeal must state with specificity, the action being appealed, and identify the assigned tracking number assigned to the public records request. The appeal may be delivered via email, regular mail or in person to the FCEM Office.
- b. FCEM will review the matter and provide a written decision on the appeal within ten (10) business days. FCEM decision on appeal is final.

20. **Training.** Public records officers will be trained as required by [RCW 42.56.150](#) and [RCW 42.56.152](#). All agency employees will receive basic training on public records compliance and records management/retention.

Responsibilities

Employees are responsible for reviewing and understanding this policy, and for promptly responding to all inquiries from staff to provide public records in their possession.

Supervisors, managers, and directors (referred to as supervisors) are responsible and accountable for ensuring staff compliance and enforcing disciplinary action when necessary.

Consistent with [RCW 42.56.580](#), FCEM's **Public Records Officer** will oversee compliance with the Act and serve as the point of contact for public records requests, but another FCEM employee may process the request. The Act does not require the Public Records Officer to personally fulfill requests for public records. The Public Records Officer

or designee will provide the fullest assistance to requestors while preventing public records request processing from causing excessive interference with essential FCEM functions. Contact information for FCEM's Public Records Officer is readily available on FCEM's website.

FCEM is responsible for providing direction on the lawful application of exemption and/or redaction bases to public records, and for overseeing FCEM's compliance with state and federal laws governing the confidentiality of public records held by FCEM. FCEM is also responsible for responding to administrative appeals pursuant to Section 19 of this policy. The FCEM Deputy Director will serve as interim Public Records Officer during a prolonged absence of the Public Records Officer or appoint an interim to serve.

The FCEM Director is responsible for FCEM's overall compliance with this policy.

Guide

Consistent with FCEM's shared values of *teamwork, integrity and excellence*, this policy fosters governmental transparency and promotes timely and efficient delivery of public records consistent with the law, thereby reducing FCEM's overall PRA liability while ensuring minimal interference with FCEM's governmental functions.

Legal References:

[Chapter 42.56 RCW](#) Public Records Act (PRA) and [Chapter 44-14 WAC](#).

Approval

FCEM Chairman

Date

Selected Federal Confidentiality Statutes and Rules

18 USC § 2721 - 2725	Driver and License Plate Information
18 USC § 923(g); Public Law 112-55, div. B, title II, 125 STAT. 609	Firearms trace data provided to local law enforcement by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
20 USC § 1232g	Family Education Rights and Privacy Act
23 USC § 409	Evidence of certain accident reports
42 USC 290dd-2	Confidentiality of Substance Abuse Records
42 USC § 405(c)(2)(C)(viii) (I)	Limits on Use and Disclosure of Social Security Numbers
42 USC 654(26)	State Plans for Child Support
42 USC 671(a)(8)	State Plans for Foster Care and Adoption Assistance
42 USC 1396a(7)	State Plans for Medical Assistance
7 CFR 272.1(c)	Food Stamp Applicants and Recipients
34 CFR 361.38	State Vocational Rehabilitation Services Programs
42 CFR Part 2 (2.1 - 2.67)	Confidentiality of Alcohol and Drug Abuse Patient Records
42 CFR 431.300 - 307	Safeguarding Information on Applicants and Recipients of Medical Assistance
42 CFR 483.420	Client Protections for Intermediate Care Facilities for Individuals with Intellectual Disabilities
42 CFR 5106a	Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
45 CFR 160-164	HIPAA Privacy Rule
46 CFR 40.321	Regulations regarding confidentiality and DOT drug testing