



Ethics Board Regular Meeting
Wednesday, August 19, 2026, 6:30 PM
Chamber Conference Room, City Hall
280 Madison Ave N
Bainbridge Island, WA 98110

The Ethics Board will hold this meeting in person, in the City Hall Council Conference Room. Attendance may be in person or the meeting is also accessible via the Zoom meeting platform.

REMOTE MEETING ON ZOOM
PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:

<https://bainbridgewa.zoom.us/j/86365762700>

OR TELEPHONE: US: 1-253-205-0468

WEBINAR ID: 863 6576 2700

AGENDA

1. CALL TO ORDER / ROLL CALL – 6:30 PM

2. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

3. PUBLIC COMMENT

In person public comment is accepted at this time on any topic of public interest. Each commenter will have three minutes, or such amount as the meeting chair determines, to speak. Public comment is not taken on individual agenda items during the meeting. Public comment is simply received by the Board, with no response, and the Board cannot deliberate on items that are not on the agenda. Please refer to guidelines and instructions for public comment, including orderly behavior and civility in remarks, attached below. The lack of comment is not an endorsement or a denial of the comment. Remote public comment is allowed with advance notice to the City Clerk, provided that all remote commenters shall be required to display their true name and to keep their camera turned on to show their true uncovered face while delivering their comments.

- **Instructions for Providing Public Comment**

4. REGULAR BUSINESS

A. Approval of Minutes:

- July 8, 2026, Meeting Minutes

B. Board Member Update

- Departing Member - Turner Vail
- Status & Discussion - Jonathan Flesher

C. Appointment of new Deputy Chair – serving remainder of 2026

D. Review Status of Pending Complaints

- Complaint EB 2026-01
- Determination Letter - Additional time needed per Article III, B(9)
- Appoint a new member of the subcommittee to draft Determination Letter

E. Training

- Open Government Training by City Attorney's Office

F. Ethics & City Council Joint Subcommittee: Status Update

- Joint Subcommittee meeting date: September 16

G. City Liaison Briefing

H. 2025 Annual Report / 2026 Work Plan

- Next steps

5. AGENDA FOR NEXT MEETING

6. NEXT MEETING DATE: September 16, 2026.

7. GOOD OF THE ORDER

8. ADJOURNMENT



Meetings are wheelchair accessible. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



Public Comment

Members of the public are encouraged to submit public comment to the City Advisory Committees.

Interested parties may provide comment by:

- Emailing the [City Clerk \(cityclerk@bainbridgewa.gov\)](mailto:cityclerk@bainbridgewa.gov). This comment may be submitted at any time.
- Providing in-person comment at a meeting.
- Providing comment at a meeting via Zoom, in accordance with the advance notice and camera requirements.

Members of the public who wish to provide public comment in-person at a meeting should sign up to speak on the sign-in sheet. The Chair will call the people signed up on the sign-in sheet, and speakers will have three minutes (or such other time set by the Chair) to speak. The Chair or a designee will indicate when the time has elapsed.

Remote public comment is allowed with advance notice to the City by 4:00 p.m. on the business day before the meeting at cityclerk@bainbridgewa.gov, provided that all remote commenters shall be required to display their true name and to keep their camera turned on to show their true uncovered face while delivering their comments.

Guidelines for public comment are below. These guidelines were established for and approved by the City Council and also apply to all advisory boards, committees and commissions of the City Council.

Excerpts from the Governance Manual regarding public comment:

5.6 Respect and Decorum

It is the duty of the Presiding Officer and Councilmembers to maintain dignity and respect for their offices, City staff, and the public. While the Council is in session, the Councilmembers shall preserve civility, order and decorum. No member of the public shall, by conversation or otherwise, delay, disrupt, or interrupt the proceedings of the Council, nor engage in any of the prohibited behavior described below. Councilmembers and the public shall obey the proper orders of the Presiding Officer of the meeting.

5.6.1 Orderly Behavior and Civility in Remarks

Any person disrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a point of order by the Presiding Officer or a Councilmember pursuant to the Council's parliamentary rules, or a recess, forced removal, or adjournment as described elsewhere in this manual. Disruptive behavior includes, but is not limited to, the following:

- a) Speaking without being recognized by the Presiding Officer.
- b) Continuing to speak after the allotted time has expired.

- c) Speaking on an item at a time not designated for discussion by the public of that item, such as speaking on a quasi-judicial item at a time other than during a public hearing or closed record proceeding on the matter.
- d) Throwing objects.
- e) Speaking on an issue that is not a public topic, in violation of Section 9.12.2.
- f) Speaking in favor of or in opposition to a ballot proposition or a candidate for public office, provided, that public comment is allowed when the City Council is considering taking a collective position in favor of or in opposition to a ballot proposition as authorized in RCW 42.17A.555.
- g) Impersonating a City Councilmember or a member of the City staff.
- h) Shouting or otherwise engaging in loud or boisterous behavior.
- i) Continuing to make repetitive remarks after being requested not to do so by the Presiding Officer or a majority of the City Council.
- j) Attempting to engage the audience rather than the Council, e.g., asking audience members to stand, clap, boo or otherwise express collective support or opposition to any matter.
- k) Booing, hissing, or otherwise disrupting the comments of another speaker.
- l) Using racial slurs or other slurs directed at the color, creed, religion, ancestry, gender, sexual orientation, gender expression or identity, national origin, citizenship or immigration status, or mental, physical, or sensory disability of any individual or group, under circumstances where such words constitute “fighting words” under constitutional law.
- m) Refusing to modify conduct after being advised by the Presiding Officer that the conduct is disrupting the meeting or disobeying any other lawful order of the Presiding Officer or a majority of the City Council.

5.6.2 Permission Required to Address the Council

Persons other than Councilmembers and Administration shall be permitted to address the Council only upon recognition and introduction by the Presiding Officer of the meeting.

9.12.2 Subjects – Whether or Not on the Current Agenda

Public comments received during the public comment period may be on any public topic, whether or not on the agenda, but a comment on the subject that is covered by a public hearing at that meeting must be made during the period of the public hearing. All public comments shall be made consistent with Section 5.6.

9.12.3 Use of Microphones

Comments shall be made directly into the microphone, as it is necessary for the public record and for the audience to hear all proceedings. No comments shall be made from any other location.



Ethics Board Regular Meeting
Wednesday, July 8, 2026, 6:30 PM
Council Conference Room, City Hall
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Bainbridge Island, WA 98110

DRAFT MINUTES

1. CALL TO ORDER / ROLL CALL — 6:39 PM

Chair Doña Keating called the meeting to order at 6:39 PM. Present: Doña Keating (Chair), Eve Sherling, Turner Vail, Paula Radloff, Samantha Rist, Gary Baldwin, Drew Pollom (Board Counsel), and Peggy Nimb (City Staff). Absent: Jonathan Flesher.

2. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

MOTION: Approve the July 8, 2026 meeting agenda. Passed unanimously.
No conflicts of interest were disclosed.

3. PUBLIC COMMENT

No public comment was received.

4. REGULAR BUSINESS

4.A Approval of December 10, 2025 Meeting Minutes

MOTION: Approve the December 10, 2025 meeting minutes. Passed unanimously.

4.B Outreach

The Board selected September 19, 2026, for a Farmers Market outreach booth. Members will coordinate coverage for the 9:00 AM–2:00 PM event.

4.C Review Status of Pending Complaints — Complaint EB 2026-01

The Board made a threshold determination under Option B for Complaint EB 2026-01.

MOTION: Make a threshold determination under Option B for Complaint EB 2026-01. Passed unanimously.

MOTION: Appoint Turner Vail, Gary Baldwin, and Paula Radloff to draft the determination letter for Complaint EB 2026-01. Passed unanimously.

4.D Training Updates

The Board will follow up with City Council regarding the joint subcommittee on training and related Ethics Code recommendations.

4.E Ethics Code Recommendations to City Council / Joint Subcommittee

MOTION: Appoint Doña Keating, Samantha Rist, and Eve Sherling to the joint subcommittee with City Council. Passed unanimously.

4.F Board Member Update

The Board thanked departing members Karen Anderson and Rafael Escandon for their service and welcomed new members Paula Radloff, Samantha Rist, and Gary Baldwin. Jonathan Flesher was noted as a new member but was not present.

4.G City Liaison Briefing

City staff provided an update on City leadership recruitment and offered support to the Board's new members.

4.H 2025 Annual Report / 2026 Work Plan

MOTION: Approve the 2025 Annual Report and 2026 Work Plan. Passed unanimously.

5. NEW BUSINESS

5.A Appointment of Board Chair — 12-month Term Beginning July 2026

MOTION: Appoint Eve Sherling as Board Chair for a 12-month term beginning July 2026. Passed unanimously.

5.B Appointment of Deputy Chair — 6-month Term Beginning July 2026

MOTION: Appoint Turner Vail as Deputy Chair for a six-month term beginning July 2026. Passed unanimously.

5.C Open Government Training

The Board scheduled Open Government training by the City Attorney's Office for the next regular meeting.

5.D Advisory Body Operations and BIMC 2.01.050(A)

MOTION: Request that the City update BIMC 2.01.050(A). Passed. (5-1; Eve Sherling opposed)

5.E Board Counsel Follow-up on December Public Comment

The Board discussed the status of Board Counsel and the public comment received in December. No action was taken.

6. AGENDA FOR NEXT MEETING

The next agenda will include Open Government training, updates on the joint subcommittee and annual report/work plan, review of pending complaints, Board member updates, City liaison briefing, and follow-up on Advisory Body Operations and BIMC 2.01.050(A).

7. NEXT MEETING DATE

MOTION: Move the regular meeting date to the third Wednesday of each month at 6:30 PM, beginning August 19, 2026. Passed unanimously.

8. GOOD OF THE ORDER

No additional business was raised.

9. ADJOURNMENT — 8:19 PM

Chair Keating adjourned the meeting at 8:19 PM.

Eve Sherling, Chair

Date

Open Government Training

Bainbridge Island Ethics Program



OGDEN
MURPHY
WALLACE
ATTORNEYS

Drew Pollom
Associate Attorney
Ogden Murphy Wallace, PLLC

Presentation Overview

- The ins and outs of the Open Public Meetings Act (OPMA)
- The ins and outs of the Public Records Act (PRA)



OPMA: Open Government Trainings Act Requirements

Individuals Required To Take Training

- Public records officers and
- Certain local/state officials

Training Must Cover Three Topics

- Public Records
- Records Retention
- Open Public Meetings

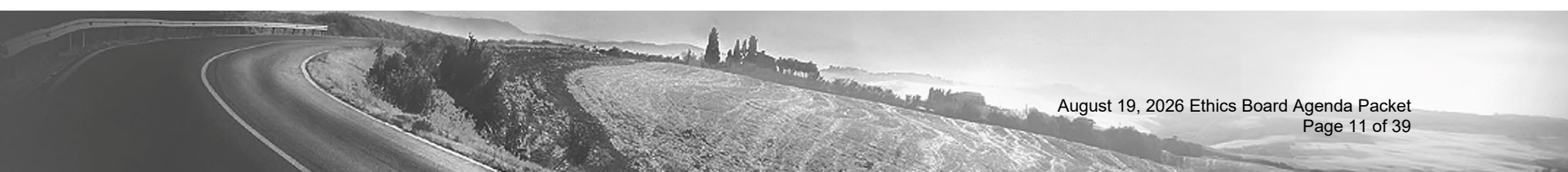
Mandatory “Refresher” Training

- At least every four years

Open Public Meetings Act

Chapter 42.30 RCW

OMW



Overview

Legislative Declaration

“The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know.”

“The people insist on remaining informed so they may retain control over the instruments they have created.”

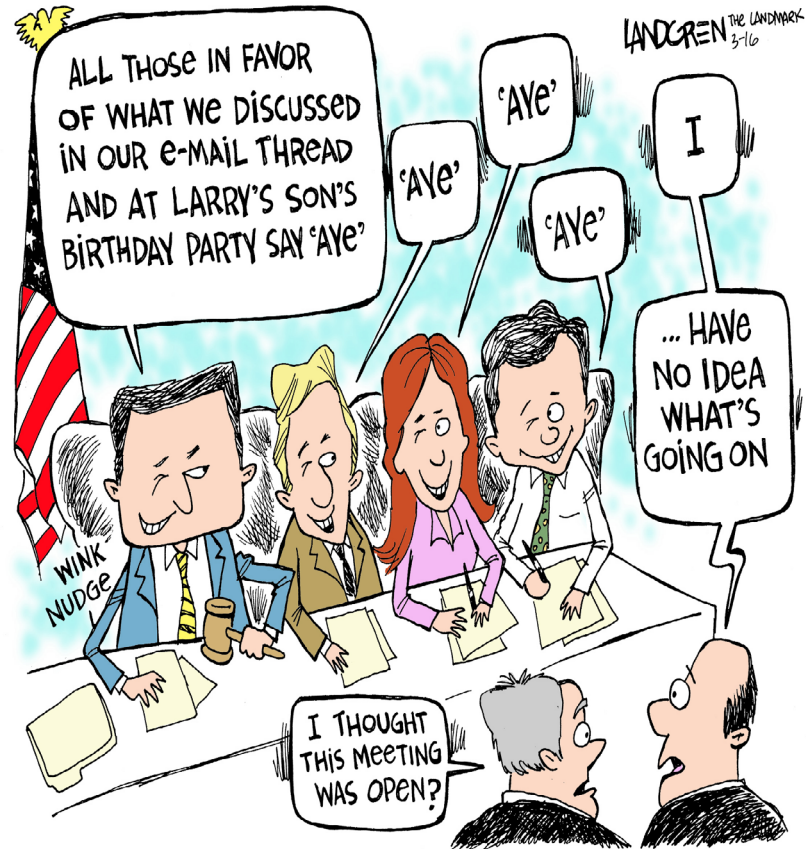
Key Rules

- All meetings of the governing body shall be open and public, and all persons shall be permitted to attend.
- Any action taken at a meeting held in violation of the OPMA is null and void.
- Any member of a governing body who attends a meeting knowing it violates the OPMA is subject to personal liability of \$500 and \$1,000 thereafter.
- A person who prevails on an OPMA suit is awarded costs and attorney fees.

Broad Scope of an OPMA “Meeting”

All meetings of the governing body of a public agency shall be open and public

- Meeting = Action + Quorum
- Action = The transaction of official business, including but not limited to:
 - Receipt of public testimony
 - Deliberations
 - Discussions
 - Considerations
 - Reviews
 - Evaluations
 - Final Actions



Who does the OPMA apply to?

All meetings of the governing body of a public agency shall be open and public

- Public agency means:
 - State agencies
 - Counties, cities, school districts, special purpose districts, other municipal districts
 - Sub-agencies created by legislation
 - Ethics boards, planning commissions, civil service commissions, etc.



What is a covered “Governing Body”?

All meetings of the governing body of a public agency shall be open and public



- Governing body = multimember board, commission, committee, council, or other rule-making body of a public agency
 - Any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

Types of Meetings

- Regular Business Meetings
- Study sessions, workshops, retreats, etc.
- Special Meetings
- Executive Sessions
- Attendance at Others' Meetings
- Attendance at Social Events
- Serial Meetings



Regular Meetings



“Regular” meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.

Ethics Program’s meeting set by the Board and by the Program rules.

Public Comment at Regular Meetings

- Agencies must provide opportunity for public comment at or before every regular meeting where final action is taken.
 - Oral or written, submitted by a reasonable deadline.
 - When feasible, provide opportunities for individuals with difficulty attending in person to provide oral comments remotely.
- No need to connect public comment to final action taken.
 - Final action can be taken on a matter that did not receive public comment at that meeting, so long as public comments were accepted at or before the meeting.
 - Public comment on a specific topic can be accepted before meeting at which final action is taken, such as previous public hearing.

Special Meetings

“Special” meeting
is any meeting
that is not a
regular meeting.

Called by presiding
officer or a
majority of the
members

Executive Session

- Before convening, presiding officer must announce the purpose of and the time the executive session is over.
 - Open meeting must reconvene at announced time, even if executive session ends early.
 - If executive session runs long, must announce new time when originally scheduled to end.
- Limited points of discussion may take place in executive session, but final action must occur in public.
 - Cannot conduct “straw polls” in executive session.
- Executive session purpose must be entered into the minutes.

OPMA: Serial Meetings

- Serial meetings, or rolling meetings, occur when a quorum of councilmembers take “action” (which includes discussion) on city business.
- These would be covered by the OPMA.
- This can happen with emails, text messages, phone calls, in-person meetings, etc.
- A quorum of members does not need to be on the same email chain or phone call – successive discussions creating a “tree” would be inappropriate.
- The only way it is permissible is if one member emails the other members for the purpose of providing relevant information and those other members merely “passively receive” the information and no discussion follows either directly in response or in other communication lines

West v. City of Seattle

May 2018: Seattle City Council voted 9-0 to adopt a head tax

June 2018: Seattle City Council voted 7-2 at a Special Meeting to repeal the head tax. No apparent public discussion had occurred among the Councilmembers, to explain the repeal, before the vote.

Two lawsuits filed, alleging that two Mayor deputies communicated with a majority of councilmembers through a series of calls and texts.

Lawsuits were settled for \$3,500 and \$35,000.

2022: HB 1329 Updates to OPMA

- Location of Meetings: all meetings of a governing body of a public agency be held in a physical location where the public can attend, with two exceptions.
- Remote Attendance by Members of the Governing Body: while the meeting must be held in a physical location and must allow the public to attend in-person (absent an emergency), any or all members of the governing body can choose to attend the in-person meeting remotely.
- Public Comment: offering the public the opportunity to comment at regular meetings where final action is taken is now a requirement.

Public Records Act

Chapter 42.56 RCW

OMW

Overview

- PRA is “a strongly worded mandate for broad disclosure of public records.” *Hearst v. Hoppe*, 90 Wn. 2d 123 (1978).
- Requires all agencies to disclose public records unless an exemption applies.
- Imposes fines for non-compliance.
- Act requires strict compliance



General Requirements



PROVIDE FULL
ACCESS TO PUBLIC
RECORDS



PROTECT RECORDS FROM
DAMAGE/DISORGANIZATION



PROVIDE THE FULLEST
ASSISTANCE TO
REQUESTORS



PROVIDE TIMELY
RESPONSE TO
REQUESTS

Agencies are required to:

- Appoint a public records officer (Christine Brown)
- Adopt procedures to:
 - Protect public records from damage and disorganization.
 - Provide full access to public records.
 - Provide timely action on public records requests.
- Make non-exempt records available for inspection and copying during customary business hours for a minimum of 30 hours per week, excluding holidays
- Publish a fee schedule if charging for copy or mailing costs. Fees cannot be charged for searching, reviewing, or redacting records

RCW 42.56.040; RCW 42.56.070-.090; PRA Model Rules at Ch. 44-14 WAC

The Request

Should be specific and request **identifiable** records from public agencies:

- No statutorily required format → use agency public records request form or provide “fair notice”
- A **request for “information”** is not a request for “records” under the PRA
- Requesters can ask to **inspect** records *or* request **copies** of records

Initial Response: 5 Options w/in 5 Days

1. Provide the record
2. Provide an internet address and link to the *agency's* website
3. Acknowledge receipt of the request and provide a reasonable estimate of time needed to respond
4. Acknowledge receipt of the request, ask for clarification, *and* provide a reasonable estimate of time required to respond
5. Deny the request

Searching and Providing Records

- **Read the request carefully** to understand what records are requested. Clarify request if needed, or ask requester to suggest search terms.
- **Conduct an adequate search** for responsive records.
- The agency bears the **burden of proof** to show the adequacy of the search.
- **Document search efforts** (locations, search terms used, personnel consulted, etc.)

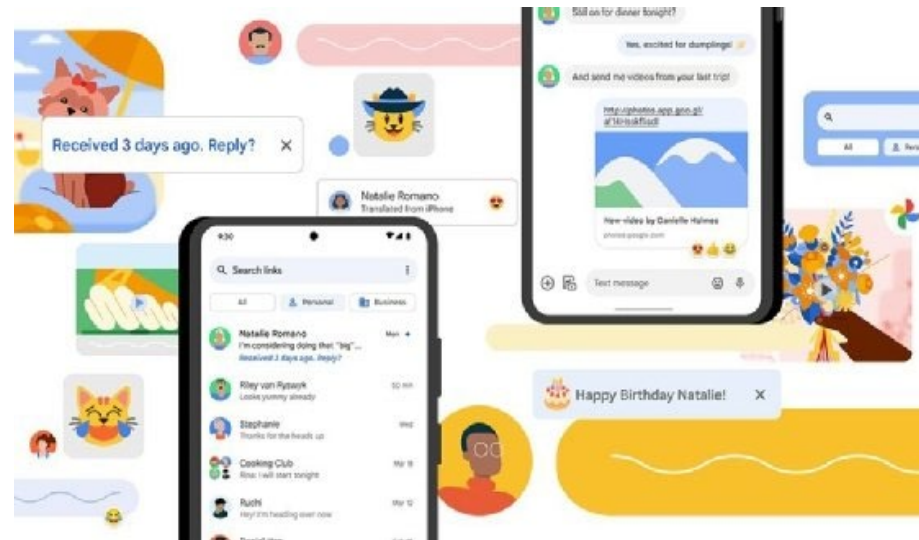
Records Controlled by an Employee

- The public **employee** must **obtain, segregate and produce** to the employer those public records that are responsive to a PRA request from the employee's **personal accounts, files, and devices**.
- Employee may be required to submit **affidavit** regarding their search



Examples of Searches on Private Devices and Accounts

- *West v. Vermillion, Puyallup* (2016): **Public records in personal residence, on personal computer, in personal email account** must be disclosed. The constitutions do not provide an individual a privacy interest in those public records. State Supreme Court denied review.
- *West v. Puyallup* (2018): **Facebook posts** on an official's personal site are **public records** if they relate to the conduct of government and are prepared within the scope of employment or official capacity.



Statutory Exemptions



- **Exemptions**
 - Not all records, or parts of records, are disclosable – depends on the information contained in the record and if a legal exemption applies
 - Exemptions are narrowly construed
 - An Exemption Log must be prepared and given to requestor noting legal reason record/part of record was redacted
- **Privacy**
 - There is no general “privacy” exemption in the PRA
 - Privacy is considered invaded only if (1) highly offensive to the reasonable person and (2) not of legitimate concern to the public.

Enforcement and Penalties



- A court can impose **civil penalties** of up to \$100/day/record for violations of PRA.
- Requestors are awarded **attorney fees and costs** if they prevail against an agency.

Penalty Examples

- **\$600,000** – Snohomish County
 - **\$575,000** – Snohomish County
 - **\$550,000** – Clallam County
 - **\$502,827** – L & I (*upheld by State Supreme Court*)
 - **\$500,000** – Board of Accountancy (*global settlement of 7 lawsuits and 15 PRA disputes*)
 - **\$488,000** – Bainbridge Island (*\$350,000 penalty, remainder is attorneys fees/costs*)
 - **\$371,340** – King County
 - **\$187,000** – Port of Olympia
 - **\$175,000** – Mesa
 - **\$174,000** – Seattle
 - **\$150,000** – Jefferson County
 - **\$100,000** – Shoreline (*with attorneys fees, total amount was more than \$500,000*)
 - **\$100,000** – Spokane County
 - **\$85,000** – San Juan County
 - **\$50,000** – City of Tacoma
 - **\$45,000** – Kennewick
 - **\$45,000** – Everett
 - **\$45,000** – Port of Vancouver
-
- \$723,290 – UW (*reversed on appeal*)
 - \$649,896 – DSHS (*reversed on appeal*)



Records Retention: Schedules

Public records must be retained in accordance with the ***Local Government Common Records Retention Schedule (CORE)*** from Washington State Archives.

Once timeframe has been met, agency can destroy or transfer records to the Washington State Archives as outlined in the records retention schedule



PRA Practice Tips

- Review adopted PRA policy
- Avoid putting things in writing, unless necessary/required
- Report any request for “records” to PRO
- Organize your records in a logical manner and accessible to others
- Avoid texts, instant messaging, etc.
- Avoid using personal devices and accounts
- **Don't be afraid to phone a friend**

PRA Recommended Resources

The Public Records Act (Chapter 42.56 RCW)

- Website: <https://app.leg.wa.gov/rcw/default.aspx?cite=42.56>

Municipal Research and Services Center

- Website: <https://mrsc.org/>

Washington State Attorney General's Office Open Government Manual

- Website: <https://www.atg.wa.gov/open-government-resource-manual>

Washington State Attorney General's Office Sunshine Committee List

- Website: <https://www.atg.wa.gov/sunshine-committee>



Drew Pollom
dpollom@omwlaw.com