

List of Public Records Exemptions Commonly Applicable to ECY Records

Code	Exemption	Brief Explanatory Description	Statute/Rule/Case
<b>[1a]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication from client to attorney for the purpose of obtaining legal advice	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[1b]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication from attorney to client for the purpose of providing legal advice	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[1c]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication between attorney and client regarding litigation	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[1d]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication between attorneys that reflect attorney-client communications regarding advice	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[1e]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication between attorneys that reflect attorney-client communications regarding litigation	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[1f]</b>	Attorney-Client Privilege – RCW 5.60.060(2)(a)	Communication between members of the client agency for the purpose of gathering information to obtain legal advice or to convey attorney-client communications	RCW 5.60.060(2)(a); RCW 42.56.070(1)
<b>[2a]</b>	Attorney Work Product Privilege – RCW 42.56.290	Drafts, notes, memoranda, or research reflecting the opinions or mental impressions of an attorney or attorney's agent prepared, collected, or assembled in litigation or in anticipation of litigation	RCW 42.56.290
<b>[2b]</b>	Attorney Work Product/ Work Product Privilege – RCW 42.56.290	Notes, memoranda, statements, records that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation	RCW 42.56.290
<b>[2c]</b>	Attorney Work Product Privilege – RCW 42.56.290	Communication between attorney and client that reveals opinions or mental impression of attorney, or information prepared, collected, or assembled in litigation or in anticipation of litigation	RCW 42.56.290
<b>[2d]</b>	Attorney Work Product Privilege – RCW 42.56.290	Communication between attorneys that reveals opinions or mental impression of attorney, or information prepared, collected, or assembled in litigation or in anticipation of litigation	RCW 42.56.290
<b>[2e]</b>	Attorney Work Product Privilege – Common Interest or Joint Defense Protection – RCW 42.56.290	Communication between attorneys who have a common interest or a joint defense agreement that reveals opinions or mental impression of attorney, or information prepared, collected, or assembled in litigation or in anticipation of litigation	RCW 42.56.290

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[2f]	Attorney Work Product Privilege – Mediation Privilege – RCW 7.07; RCW 42.56.290	RCW 7.07.030 provides for confidentiality relating to mediations. RCW 42.56.290 provides for an exemption from disclosure things that are not discoverable when an agency is a party to a controversy	RCW 7.07; RCW 42.56.290; RCW 42.56.070(1)
[3a]	Deliberative Process – RCW 42.56.280	Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended until such policies and recommendations are finalized, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action	RCW 42.56.280 <b>Must have PDO approval to use this exemption.</b>
[4a]	Public Employees – Applications – RCW 42.56.250(1)(b)	All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant	Old citation RCW 42.56.250(2)
[4b]	Public Employees/Volunteers – Address; Phone; Email; SSN; Driver's License; Emergency Contact; Names and DOB (for dependents) – RCW 42.56.250(1)(d)	The following information held by a public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, driver's license numbers, identicard numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, addresses, telephone numbers, and electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.	Old citation RCW 42.56.250(4)
[4c]	Public Employees – Personal Information in Personnel Files – RCW 42.56.230(3); RCW 42.56.050	Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (information regarding substantiated misconduct is not exempt)	RCW 42.56.230(3); RCW 42.56.050
[4d]	Personal Information – Employee Performance Evaluation – RCW 42.56.230(3)	Routine employee performance evaluation with no discussion of specific instances of misconduct	<i>Dawson v. Daly</i> , 120 Wn.2d 782, 845 P.2d 995 (1993); RCW 42.56.230(3)
[4e]	Public Employees - Test Questions, Scoring Keys, and Other Examination Data - RCW 42.56.250(1)(a)	Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination	Old citation RCW 42.56.250(1)

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[4f]	Public Employees - Complainants, other accusers, and witnesses in employment discrimination investigation - RCW 42.56.250(1)(f)	Investigative records regarding discrimination or harassment in employment are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;	Old citation RCW 42.56.250(6)
[4g]	Public Employees - Domestic Violence - RCW 42.56.250(1)(i)(A) & (B)	Any employee's name or other personally identifying information, including but not limited to birthdate, job title, addresses of work stations and locations, work email address, work phone number, bargaining unit, or other similar information, maintained by an agency in personnel-related records or systems, or responsive to a request for a list of individuals subject to the commercial purpose prohibition under RCW 42.56.070(8),	Related RCW 42.56.250(1)(i)(A), RCW 42.56.250(1)(i)(B)
[4h]	Public Employees and Volunteers - Photograph and Month and Year of Birth - RCW 42.56.250(1)(h)	Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5)	
[4i]	Public Employees - Individual's Voluntarily Submitted Personal Demographic Details - RCW 42.56.250	Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040(27), immigration status, national origin, or status as a person with a disability.	
[5a]	Personal Information – Financial Information – RCW 42.56.230(5)	Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law	RCW 42.56.230(5)
[5b]	Personal Information – Driver's License – RCW 42.56.230(7)(a)	Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard	RCW 42.56.230(7)(a)
[5c]	Personal Information – Tax ID – RCW 42.56.230(4); 42 U.S.C. § 405(c)(2)(C)(viii)(I)	Information required of any taxpayer in connection with the assessment or collection of any tax (Social Security Number)	RCW 42.56.230(4); 42 U.S.C. § 405(c)(2)(C)(viii)(I); RCW 42.56.070(1)

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[6a]	Investigative, Law Enforcement, and Crime Victims – Investigative Files – RCW 42.56.240(1)	Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy	RCW 42.56.240(1) <b>Must have PDO approval to use this exemption.</b>
[6b]	Investigative, Law Enforcement, and Crime Victims – Identity of Witness or Victim – RCW 42.56.240(2)	Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, if disclosure would endanger any person's life, physical safety, or property or if at the time of the complaint the witness indicates a desire for nondisclosure	RCW 42.56.240(2) <b>Must have PDO approval to use this exemption.</b>
[7a]	Proprietary, Financial, and Commercial Information – Valuable Formulae – RCW 42.56.270(1)	Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss	RCW 42.56.270(1)
[7b]	Proprietary, Financial, and Commercial Information - Farm Plans - RCW 42.56.270(17)	Farm plans developed by conservation districts, unless permission is granted by the landowner or operator, or the farm plan is used for the application or issuance of a permit	RCW 42.56.270(17)
[7c]	Proprietary, Financial, and Commercial Information - Market Share Data - RCW 42.56.270(21)	Market share data submitted by a manufacturer related to electronic product recycling	RCW 42.56.270(21)
[7d]	Proprietary, Financial, and Commercial Information – Crude Oil Transfers – RCW 42.56.270(23)	Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information submitted to the department of ecology.	RCW 42.56.270(23)
[7e]	Proprietary, Financial, and Commercial Information – Trade Secret – RCW 19.108.010 et seq.;	Information that derives independent economic value from not being generally known and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy	RCW 19.108.010 et seq.; RCW 42.56.070(1)
[7f]	Proprietary, Financial, and Commercial Information – Material Protected by Copyright – Federal Copyright Act, 17 U.S.C., sec. 102, 301, and 106(1)	Reproduction of records prohibited under copyright law	Federal Copyright Act, 17 U.S.C., sec. 102, 301, and 106(1); RCW 42.56.070(1)

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[8a]	Criminal History – Background Checks – RCW 43.43.834(5)	Criminal history background records obtained by a state agency cannot be disclosed to the public	RCW 43.43.834(5); RCW 42.56.070(1)
[9a]	Security – Response to Criminal Terrorist Acts – RCW 42.56.420(1)	Portions of records assembled, prepared or maintained to prevent, mitigate, or respond to terrorist criminal acts consisting of specific and unique vulnerability assessments or deployment plans and which are not subject to public disclosure under federal law	RCW 42.56.420(1) <b>Must have PDO approval to use this exemption.</b>
[9b]	Security – Computer and Telecommunications Networks – RCW 42.56.420(4)	Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities	RCW 42.56.420(4)
[10a]	Whistleblower Protection - Report of Improper Governmental Action - RCW 42.40.040(2)	Identity or identifying characteristics of a whistleblower employee or any person who in good faith has provided information in a whistleblower investigation is confidential at all times, unless they consent or acknowledge his or her identity pursuant to RCW 42.40.040(2)	RCW 42.40.040(2); RCW 42.56.070(1)
[11a]	Archaeological Sites – Identifying the Location of Archaeological Sites – RCW 42.56.300(1)	Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites are exempt from disclosure	RCW 42.56.300(1)
[11b]	Archaeological Sites – Watershed Analysis Records, Maps and Other Information – RCW 42.56.300(2)	Records, maps, and other information, acquired during watershed analysis pursuant to the forests and fish report under RCW 76.09.370, that identify the location of archaeological sites, historic sites, artifacts, or the sites of traditional religious, ceremonial, or social uses and activities of affected Indian tribes, are exempt from disclosure in order to prevent the looting or depredation of such sites	RCW 42.56.300(2)

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[11c]	Archaeological Sites – Site Forms, Reports and Data – RCW 42.56.300(3)	Any site form, report, specific fields and tables relating to site form data within a database, or geographic information systems spatial layer obtained by any state agency or local government, or shared between any state agency, local government, or tribal government, is exempt from disclosure if the material is related to: (a) an archaeological site as defined in RCW 27.53.030; (b) historic archaeological resources as defined in RCW 27.53.030; or (c) traditional cultural places	RCW 42.56.300(3)
[12a]	Risk Management – Review of Claims – Settlements – RCW 4.92.210(2)	A centralized claim tracking system shall be maintained. Information in this claim file, other than the claim itself, shall be privileged and confidential	RCW 4.92.210(2); RCW 42.56.070(1)
[12b]	Risk Management – Reserves – RCW 4.92.210(6)	Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and confidential	RCW 4.92.210(6); RCW 42.56.070(1)
[13a]	Industrial Insurance – Claim Files & Records of Injured Workers Confidential – RCW 51.28.070	Information contained in claim files and records of injured workers are deemed confidential and shall not be open to public inspection	RCW 51.28.070; RCW 42.56.070(1)
[13b]	Industrial Insurance – Injured Worker Options – Claim Resolution Structured Settlement Agreements – RCW 51.04.063(13); RCW 42.56.230(8)	All information related to individual claims resolution structured settlement agreements other than final orders are private and exempt	RCW 51.04.063(13); RCW 42.56.230(8); RCW 42.56.070(1)
[14a]	Business Licensing Information – RCW 19.02.115(2)	Licensing information created or obtained by the department of revenue is confidential and privileged, and except as authorized by RCW 19.02.115(3), neither the department nor any other person may disclose any licensing information	RCW 19.02.115(2); RCW 42.56.070(1)
[15a]	Certified Confidential Business Information – RCW 43.21A.160; RCW 90.52.020	Records relating to unique processes of production or which may adversely affect the competitive position of the owner or operator upon release if certified by the owner or operator and the director designates for confidential use only provided that confidentiality shall not extend to waste products discharged into the water or air of the state	RCW 43.21A.160; RCW 90.52.020; RCW 42.56.070(1)

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<b>[15b]</b>	Confidentiality of Records and Information – Air Quality – RCW 70A.15.2510	Records, other than ambient air quality or emission data, relating to unique processes or production or which may adversely affect the competitive position of the owner or operator upon release if certified by owner or operator and the director designates for confidential use only	70A.15.2510; RCW 42.56.070(1)
<b>[15c]</b>	Waste Management – Consultative Services – Technical Assistance – Confidentiality – RCW 70A.300.290	Any person receiving consultative services or technical assistance to promote priority waste management methods under RCW 70.105.150 may request confidential treatment of information about their manufacturing or business practices which the director may designate for confidential use only	RCW 70A.300.290RCW 42.56.070(1)
<b>[15d]</b>	Cap-and-Invest Program - RCW 70A.65.100(9)	Records containing the following information are confidential and are exempt from public disclosure in their entirety: Bidding information; information contained in the secure compliance instrument tracking system; and financial, proprietary, and other market sensitive information as determined by the department.	RCW 70A.65.100(9); WAC 173-446-020
<b>[16a]</b>	Information From Dairies and Feedlots – RCW 42.56.610; RCW 90.64.190	Information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information according to rules adopted by the department of agriculture	RCW 42.56.610; RCW 90.64.190; WAC 16-06-210(29); RCW 42.56.070(1)
<b>[17a]</b>	Sensitive Fish and Wildlife Data – RCW 42.56.430(2)	Sensitive fish and wildlife data meeting at least one of the following criteria as applied by the department of fish and wildlife: (a) nesting sites or specific locations of endangered or threatened species; (b) radio frequencies or locational data from telemetry studies; or (c) other location data that could compromise the viability of a specific fish or wildlife population.	RCW 42.56.430(2)
<b>[18a]</b>	State Procurement Records – RCW 39.26.030(2)	Bid submissions and bid evaluations are exempt from disclosure until the agency announces the apparent successful bidder.	RCW 39.26.030(2); RCW 42.56.070(1)
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