



1.2 OPEN RECORDS

This is a brief summary of the open records law.

Declared policy - [Section 19.31 to 19.39, Subchapter II/Wisconsin Statutes](#) indicates that the declared public policy of this state is that "all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them." Section 19.31 declares that a presumption of complete public access exists and that denial of public access is generally contrary to the public interest.

Is it a "record?" - Decide if requested material is a "record." A "record" is any material on which information is recorded, regardless of physical form or characteristic, which has been created or is being kept by an agency or other government authority. There are exceptions, such as:

- Any correspondence to which an attorney is a party involving litigation.
- Drafts, notes and preliminary computations prepared for originator's personal use.
- Information specifically closed by law (example: medical records).
- Materials limited by copyright, patent or bequest.
- Published materials available for sale or available at a public library.

Determine custodian. The custodian of a record is usually a person who has work responsibility over the record. When in doubt, ask!

A sufficient request - To be considered sufficient, a record request must reasonably describe the information being sought, and must be reasonably limited as to subject matter and the length of time involved. A custodian is not required to create a new record by extracting information from existing records and compiling the information in a new format.

Responding promptly - A response to a record request needs to be made "as soon as practicable and without delay." Of course, a custodian may need time to retrieve and inspect the record before preparing a response. The Attorney General recommends this be done within 10 days if possible. The response to a request is to either: (1) provide the record information, or (2) deny in whole or in part. If the request is denied, the reasons for denial must be provided and must be specific and sufficient. If you cannot think of valid and specific reasons for denying access to records, the best practice is to turn the information over.

Reasonably specific requests - A request MUST be honored if it "reasonably" describes the requested record or information requested.

Identity of requester/purpose of request - A records request may not be denied because the requester refuses to provide identification or to state the purpose of the request.

Inspection, copying and fees - Copy fees are limited to "actual, necessary and direct cost of reproduction," and costs for locating records may not be charged unless they exceed \$50. WisDOT must give an appropriate facility where requested records can be viewed. Fees may

also be waived, at discretion of custodian. Persons having a right to inspect a record are entitled to a copy, if they ask. WisDOT's cost for photocopies is \$0.15 per printed page and \$0.07 per page for converting paper records to electronic format, except where otherwise set by law. There is no sales tax.

Penalties and enforcement - If a custodian denies an open record request, the requester may seek a court order. If a court issues the appropriate order, the agency is required to pay at least \$100, plus reasonable attorney fees and costs. If a custodian unreasonably denies an open record request, a court may assess a \$1,000 forfeiture, plus costs and attorneys fees payable by WisDOT or custodian. Persons who may enforce records request against the department include: (1) requester; (2) district attorney; and, (3) the Attorney General. Detailed information and guidance is available online from Wisconsin Department of Justice and the U.S. Department of Justice. Reference can also be made to WisDOT's Transportation Administrative Manual (TAM); WisDOT's records management; and, to your local records coordinator.