



November 17, 2025

Washington State Attorney General's Office
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Re: Comments on Public Records Act Model Rules Rule Making WSR 25-20-108

To the Attorney General's Rule Making Team:

Thank you for the opportunity to submit comments on the proposed amendments to the Model Public Records Act Rules in connection with Rule Making WSR 25-20-108. The City of Bellevue has a vested interest in any changes to the Model Public Records Act Rules in chapter 44-14 WAC as our Clerk's Office and Police Department have already received nearly 8,000 public record requests in 2025 and another almost 3,000 requests for permit records. While the City of Bellevue has resources dedicated to public disclosure processing; even with such resources, some of the proposed amendments detailed below will impact our agency.

Bellevue is committed to the principles of open government that are embedded in the Public Records Act, however, it believes the rulemaking process should be reserved for its intended purpose of establishing *advisory* model rules on public records compliance, advising agencies on how the law should be applied. The legislative process should be the venue where binding law is established in the Public Records Act. One process (legislative) for establishing the law; the other process (rulemaking) to provide guidance for agencies on how to fulfill their legal obligations. The stated goal of the model rules "is to establish a culture of compliance among agencies and a culture of cooperation among requestors by standardizing best practices throughout the state." WAC 44-14-00001. The model rules and comments are intended to be nonbinding and advisory only.

We appreciate that the current version of the proposed amendments to the model rules address several of the issues raised by Bellevue and other public agencies to the News Media's original proposed amendments, but some of the proposed changes cause concern and seem to attempt to establish practices that go beyond the Public Records Act (PRA) and, in some cases, are contrary to the PRA. The following are the city's primary concerns.

1. *Proposed changes to the way agency staff process requests will limit flexibility and negatively impact responsiveness and timely production of records.*

The proposed amendments to WAC 44-14-040 would make significant changes to the way agency staff should process requests that could defeat the stated purpose of the model rule changes—helping agencies increase responsiveness to requests and providing timely responses.

For example, while many agencies, including Bellevue, already triage requests whenever possible, this is frequently not practicable. The existing model rules language gives agencies the flexibility needed to process requests in the way that will be most efficient for their specific agency while recognizing staff have multiple, competing responsibilities. Even when a request appears to initially be for very few or even a single record, processing the request requires coordination among multiple departments and may require review for exemptions—all of which would likely take longer than five business days. Proposing that staff should divide requests into simple and complex tracks and also consider if the requester has identified a reason why “time is of the essence,” not only requires agencies to treat requesters differently, which arguably violates the plain language of the PRA, but would create more work for staff to assess the request and the requester’s purported need—further slowing down the processing time and taking staff time away from gathering responsive records.

The proposed amendments to WAC 44-14-040(1) are blanket statements that will not equally apply to each agency in practice. A single record may be vastly different than another in page number, complexity of content, applicable statutory exemptions, and privacy rights. Each public agency handles various record types, some with more complex statutory exemptions than others. The proposed language stating: “Where a request has been made for a single, specific, identifiable record, the (name of agency) will endeavor to produce the request within five business days if practicable to do so []” is not practical in application. For example, the City of Bellevue operates various departments. A juvenile justice or care agency, such as a police department, that receives a request for a single record is inherently different than a request for a single record from a public utility agency. The inherent complexity in applicable exemptions is not taken into consideration in this rule amendment. Application across different state agencies, and even within agencies, will result in uneven application due to the inherent differences in record types.

The proposed change to how agencies should treat subsequent requests to inspect records after a requester has failed to claim or review the records would also not further the stated purpose of the model rule changes. Eliminating the flexibility of agencies to process subsequent requests in the way that is most efficient for the agency will not increase responsiveness or result in more timely production of records. Under the PRA, an agency is not obligated to fulfill the balance of a request if an installment of records is not claimed or reviewed by a requestor. This proposed rule change would allow requestors that forfeited their original requests to potentially be prioritized over other requestors that have taken the

responsibility to claim their installments, in essence allowing a requestor to hold their place in a queue of requests even if they abandon their records request.

2. *Proposed change to third party notice language is not supported by the plain language of the PRA and requires information agency staff likely do not have prior to giving notice.*

The proposed amendments to WAC 44-14-040(6) also appear to add a requirement around providing third-party notice that is not supported by the plain language of the PRA—specifically that prior to providing notice, agency staff first make a determination that disclosure “may substantially and irreparably damage any person or vital government function[.]” With the volume of public records requests that often varies in intensity, this new step would be challenging to manage in terms of agency resources, which could also lead to different levels of analysis within and across Washington agencies.

Furthermore, as recently recognized by our State Supreme Court¹, the party that is the subject of the public record is in the best position to identify what interest, if any, could be invaded as a result of disclosure of the record and agencies frequently do not have sufficient information prior to giving third party notice to assess whether a record is likely exempt. This is precisely why third-party notice is given and why it is required in certain circumstances, such as where personnel records are requested. This is also why vendors and contractors doing business with public agencies in Washington frequently require public agencies to agree to provide third party notice because they are aware of our public record obligations and want to preserve their ability to obtain a court order preventing release of sensitive records—as expressly authorized under the PRA. Amending the model rules to add a new requirement prior to giving third-party notice would create an additional hurdle for agencies that, again, does not appear in the PRA.

3. *Proposed changes to the record index language would be unduly burdensome and do not further the stated purposes of the model rules.*

The proposed amendment to the index requirements in WAC 44-14-030(2) is itself unduly burdensome. Under the PRA, local agencies need not maintain an index if doing so would be unduly burdensome. To now go back and have such agencies specify for “which type of records” it would be unduly burdensome to keep an index is, itself, unduly burdensome as it would take staff time to identify and assess each record type. It is also unclear how revising

¹ See *John Does v. Seattle Police Dep't et al.*, 4 Wash. 3d 343, 360 (2025) (“The person who is the subject of the public record is in the best position to identify what interest, if any, they hold that could be invaded as a result of disclosure of the public records. This third-party notice provision under RCW 42.56.540 provides a mechanism for the agency to inform the subject of the public record that the record has been requested, so that the third party may seek an injunction on that basis.”).

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this arguably outdated requirement would further the purposes of the model rules or of these proposed amendments.

Bellevue is aware that other public agencies and organizations like the Association of Washington Cities (AWC) are submitting comments to the Attorney General's Office and shares many of the concerns those comments and letters raise to the proposed amendments. Also, Bellevue recognizes smaller public agencies may be deeply impacted due to their size, resources, and number of public records requests received; therefore, is in support of the comments provided by AWC and other smaller cities that provided public comment at the November 6th public hearing. We appreciate the opportunity to weigh in on these important proposals and thank the Attorney General's Office for its consideration.

Sincerely,

CITY OF BELLEVUE OFFICE OF THE CITY ATTORNEY Trisna Tanus City Attorney	CITY OF BELLEVUE OFFICE OF THE CITY CLERK Charmaine Arredondo Deputy Director/City Clerk
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