

**WESTERN WASHINGTON UNIVERSITY
ITEM SUBMITTED TO THE BOARD OF TRUSTEES**

TO: Members of the Board of Trustees

FROM: President Sabah Randhawa

DATE: December 15, 2017

SUBJECT: **Approval to Amend Chapter 516-09 WAC, Public Records, to Update Public Records Definition, Allow Fees for Certain Costs and Waivers Thereto, and Other Housekeeping Changes**

PURPOSE: Action Item

Purpose of Submittal:

To obtain approval from the Board to adopt the proposed amendments to Chapter 516-09 Washington Administrative Code (WAC), Public Records.

Proposed Motion:

MOVED, that the Board of Trustees of Western Washington University, upon recommendation of the President, approve the adoption of the proposed amendments, as attached, to the Washington Administrative Code, Chapter 516-09, Public Records, as filed in the Washington State Register, WSR 17-21-023.

Points to Consider:

Review of Chapter 516-09 WAC, Public Records, was in response to legislative amendments to RCW 42.56, Public Records Act that became effective July 23, 2017. During the summer of 2017, committee members Kerena Higgins, Assistant Attorney General; Rob Olson, Assistant Attorney General; Paul Mueller, Director, Risk, Compliance and Policy Services; Dolapo Akinrinade, Public Records Officer; and Jennifer Sloan, Rules Coordinator, met to review and update Chapter 516-09 WAC. The review of stakeholders included the following groups: President's Cabinet and the Technical Review Committee.

Legislative changes included: new provisions that allow state agencies to charge for providing electronically produced public records; permit state agencies to deny frequent, automatically generated requests for public records, as well as deny requests that are for all or substantially all public records of an agency. The legislature also included language that if an agency charges for records it must go through an analysis of costs associated with providing records and develop a fee schedule, or if the process to determine costs is unduly burdensome, then the agency may adopt the State's fee schedule. In order to implement the legislative changes, the university must amend its WAC.

Summary of changes:

- WAC 516-09-020 – Removed other university education centers named in this section. The university may establish additional centers in the future and may cause a need to revise the WAC to accommodate those changes. Removed the web address and directed requesters to where the information is located (public records office or university archives).

- WAC 516-09-03001 – Updated the definition of public records to mirror RCW 42.56.010(3) Public record definition. The revision also includes that a public record does not include records that are not otherwise required to be retained by the agency and are held by volunteers who do not serve in an administrative role or have not been appointed to an agency board.
- WAC 516-09-040 – Added new language adopted by the legislature that allows an agency to deny a request that is for all or substantially all agency records, or a request that is frequent and automatically generated.
- WAC 516-09-070 – Updated costs of providing public records to incorporate the new charges allowed under RCW 42.56.120 and to include when costs may be waived. With this revision, the university is adopting the fee schedule approved by the legislature on July 23, 2017.

Western followed its permanent rule making process in the development of these revisions, which included filing appropriate documents with the Washington State Office of the Code Reviser, stakeholder review and drafting, Technical Review Committee review, President's Cabinet approvals, a public hearing, and legal notices for the media.

Supporting Information:

Attachment 1 – Chapter 516-09 WAC, Public Records, with amendments

Attachment 2 – Hearing Officer's Report

Attachment 3 – Audio recording of public hearing - <http://www.ustream.tv/recorded/109977127>