

WWU RULE-MAKING REVIEW
Hearing Officer's Report
Chapter 516-09 WAC, Public Records

On November 21, 2017, at 12:00 p.m., in Old Main 340, a public hearing was held on a proposal to amend Chapter 516-09 WAC, Public Records. The hearing was conducted by Jennifer Sloan, Rules Coordinator. The hearing was held pursuant to the authority provided in the Revised Code of Washington, Open Public Meetings Act, and Administrative Procedures Act.

The testimony and Hearing Officer's Report are provided to the university's president for consideration of the permanent rule change. Upon approval, the proposed rule is presented to the Board of Trustees for adoption and is effective 31 days after filing with the Code Reviser's Office.

Notice of Hearing

Notice of public hearing was published in the November 1, 2017 issue of the *Washington State Register* (17-21-023). Notice of hearing was also published November 1, 2017 on the university's online newsletter, *Western Today*, and published in the campus newspaper, *Western Front*, on October 31, 2017.

Hearing Attendance

Paul Mueller, Director, Risk, Compliance & Policy Services; Dolapo Akinrinade, Public Records Officer; Matthew Tangeman, *Western Front*; and Rob Olson, Assistant Attorney General. A copy of the sign-in roster is attached.

Background

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, AAG; Rob Olson, AAG; Paul Mueller, Director, Risk, Compliance & 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.

Overview

Dolapo Akinrinade, began the hearing by providing an overview of the legislative changes that in turn led to review and amendments to Chapter 516-09 WAC. Legislative changes included, but are not limited to: 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 for all or substantially all public records of an agency.

Hearing Officer's Report

Chapter 516-09 WAC

Page 2

Ms. Akinrinade discussed the following amendments to sections in Chapter 516-09 WAC:

- 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 web address and directed requester to where the information is located (public records office or university archives).
- WAC 516-09-03001- Updated 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 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.

Testimony

The Rules Coordinator reported that no written testimony was received.

Audience Comments and Questions

There were no audience comments or questions and no further testimony was given.

The hearing adjourned at 12:06 p.m.

Conclusion

Considering the legislative update to RCW 42.56, Public Records Act, effective July 23, 2017, I recommend the following:

- That President Randhawa approve amended Chapter 516-09 WAC, Public Records; and further, that the proposed rule changes be brought before the Board of Trustees for its consideration.

Respectfully submitted,



Jennifer Sloan
Rules Coordinator

JS

Attachments:

Public Hearing Sign-In Sheet

Audio Recording of Public Hearing - <http://www.ustream.tv/recorded/109977127>

Chapter 516-09 WAC – Current rule

Chapter 516-09 WAC – Final Draft of Proposed Rule