

CHAPTER 9: Public Disclosure and Discovery (PDD)

ALTSA Residential Care Services, Standard Operating Procedures Manual

Overview

The Public Records Act (PRA) requires all state and local agencies to make, with some specific exemptions, all public records they retain available to the public. The public disclosure guidelines and resources that follow contain the Standard Operating Procedures (SOPs) designed to assist Residential Care Services (RCS) staff with the public disclosure process and to help facilitate PRA adherence.

Residential Care Services (RCS) Public Disclosure & Discovery (PDD) unit is responsible for maintaining the public facility locator websites displaying long term care facilities' regulatory compliance documents, addressing records requests from the public, Attorney General's Office, interagency requests, discovery, subpoenas, attorneys, and other state agencies. The PDD unit also manages the maintenance, retention, and disposition of RCS' public records.

Authority:

- [45 CFR § Parts 160, 162, and 164](#) (HITECH Act), HIPAA Privacy Rules
- [Chapter 42.56 RCW](#) – Public Records Act
- [RCW 74.42.430](#) – Written Policy Guidelines
- [WAC 365-18-100](#) – Ombuds Record Access
- [DSHS Administrative Policy 2.07](#) – Office of Communications Policy
- [DSHS Administrative Policy 5.02](#) – Public Records Requests
- [RCS Standard Operating Procedure, Chapter 23 – Central Files](#)
- [DSHS Record Retention Schedules by Unit](#)
- [Public Disclosure Resources \(ALTSA Intranet\)](#)

These procedures are specific to Residential Care Services and are not covered by [DSHS Administrative Policies](#) as they are specific to Residential Care Services. These procedures will be reviewed for accuracy and compliance at least every 5 years.

Contacts

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Part I: Requests for Records, Information: RCS Staff

Overview

This chapter contains the SOPs that RCS Staff who work outside of the PDD unit are required to follow when receiving record and information requests.

A. Request for Records

Procedure

1. All records requests received by RCS staff outside the PDD unit should be emailed to the PDD unit at PDD@dshs.wa.gov immediately upon receipt. By law, a requester must be responded to within five (5) working (business) days of their request. This is five working days from receipt of the request by the Department of Social and Health Services (DSHS), not from when PDD receives the request. For this reason, the immediate forwarding of any records requests to PDD is of utmost importance.
2. Requests for records may be made to RCS in any format, including by phone, in hardcopy, in person, or by email.
3. If you receive a request in hardcopy, scan the request, and email to PDD. The original hard copy of the request should be sent via campus mail to MS: 45600 (Public Disclosure & Discovery Unit).
4. If a request is received verbally, make sure you note the requestor's full name and contact information (email preferred, but physical address is also acceptable). Also note the type(s) of records being requested and as many relevant names, dates, locations, facility numbers, and/or intake numbers as possible. Email this information to PDD, reviewing the accuracy of the information you are providing.
5. All RCS staff have a duty to assist in the production of records for a records request. Staff must identify for PDD what records are responsive to the request such as Electronic Working Papers (E-WP), emails, SOD/Attestation, Room Lists, Floor Plans, Disclosure of Services, etc. If/when PDD staff contact you to search for records, track your time spent searching and the locations searched. When you notify PDD that your search for records is complete, also include your time spent working on the request.
6. Employees have no expectation of privacy in public records that have been created within the scope of their employment.
7. If requested by PDD, RCS staff are responsible for searching and producing to the PDD unit their emails that have not been vaulted yet (less than 45 days old), as well any information that may be stored on their state-issued personal electronic devices. If no responsive public records exist, then an affidavit to that effect may be issued.
8. Special circumstances:
 - a. Long-Term Care Ombuds Program (LTCOP): [WAC 365-18-100](#)(5) provides specific record access to the LTCOP. Contact the PPD unit for direction.

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- b. Insurance Companies regarding Nursing Homes (NH) and Adult Family Homes (AFH):
- If the request is for: records, the nature and frequency of complaints about the facility, how many fines have been imposed, or whether fines were paid, or any information which requires gathering of records, review and redaction of the requested information, refer the call to Headquarters (HQ) Public Disclosure Staff at (360) 725- 2316 or PDD@dshs.wa.gov.
 - If the request is for: the number of beds, the effective date of the license, status of the license, name of the provider, location of the facility, Medicaid contracted services, or any general information that is not included in the web locator, refer the call to Business Operations and Analysis Unit (BOAU) general number at (360) 725-3700 or RCSBOA@dshs.wa.gov.
9. A Memorandum of Understanding (MOU) is an agreement between AL TSA and other DSHS entities and the AAG's office. Data Sharing Agreement (DSA) or Data Use Agreement (DUA) is an agreement between other state and federal entities. The MOU, DSA or DUA determines what information the PDD can release to another state agency to meet the 'minimum necessary standard' under the HIPAA Privacy Rule. For this reason, PDD is unable to provide full sets of working papers. Therefore, it must be determined which specific documents are being requested when a request is received for working papers. The MOU's related to Public Disclosure include the following entities, such as the following: Adult Protective Services (APS), Home and Community Services (HCS), Developmental Disabilities Administration (DDA), Medicaid Fraud Control Division (MFCD), and the Attorney General (ATG). The DSA includes the following entities: Department of Health (DOH) and the Ombuds. The DUA includes the Center for Medicare and Medicaid Services (CMS) Minimum Data Set (MDS).
10. When PDD unit requests records from a regional office, the documents are to be sent to PDD in the following address: <Q:\RCS-PD-Field>. The PDD staff do not have access to regional SharePoint sites. Due to the size and volume of the records email is not a secure or efficient way to submit the records, and it causes additional redaction by PDD when responding to request for emailed information that have the attachments.
- Note: If an AA, in the field, does not have permissions to this folder they will need to submit a [HelpDesk](#) ticket to obtain permissions.**
11. If the field receives a request for a different appointing authority, such as other divisions in AL TSA, those requests need to be forwarded to the PDD@dshs.wa.gov. They will record receipt of the records request and forward the request to the PD staff in those divisions.

Supervisor Responsibilities

1. Train new staff and ensure they can demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

B. Requests for Information

In this section, “information” refers to collected facts or data about a specific topic that is not subject to state or federal disclosure laws. Requests for information differ from public disclosure requests in that the requested information is available without legal authority being required. Additionally, it does not provide access to public records.

1. RCS staff should respond to all information requests as courteously and in as timely a manner as possible.
2. Some examples of information requests may be RCS publications, manuals, and licensing information (e.g., effective date of license, name of provider, location of facility, Medicaid contracted services, etc.).
3. If RCS staff receive a request for information that meets the definition of “request for information,” the request should *not* be forwarded to the Public Disclosure Program Manager, but to the relevant Subject Matter Expert (SME).

Example: requests for data would be directed to the Quality System, Data and Performance Unit, and requests for information on facility enforcement actions would be directed to the Complaint and Enforcement Unit.

4. Requests for information about a facility in one region: The Regional Administrator (RA), Field Manager (FM), or designee will call the requestor and verbally provide the factual regulatory compliance information. It is not necessary to retain and/or document the request or the response.
5. Requests for information that involves multiple regions: Forward the request for information to the RCS Public Disclosure Unit PDD@dshs.wa.gov and staff from this unit will review the request and forward to the appropriate staff.
6. If the RA, FM, or designee provides a written response to an information request, then the region should retain a copy of the information request and response, and forward to RCS PDD@dshs.wa.gov for retention in the correspondence section of the facility central file.
7. If you are unsure, whether providing verbal information will violate any privacy or confidentiality laws, please contact the RCS Public Disclosure Program Manager at PDD@dshs.wa.gov for guidance.

Supervisor Responsibilities

1. Train new staff and ensure they can demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

Part II: [Requests for Records, Information: PDD Staff](#)

Overview

This section applies to Public, Discovery, and Central Files Unit staff (Central Files, Record Retention and Record Management).

Procedure

1. Determine which public records are being sought. Clarify with the requester, if necessary. Always confirm your understanding of the disclosure request with the requester.
2. Within five (5) business days of receipt of a public records request (the day of receipt is Day 0), DSHS must respond in one of the following ways:
 - a. Produce responsive public records;
 - b. Acknowledge receipt of the request and provide an estimated date for first response;
 - c. Provide an internet address and link to the specific records requested;
 - d. Seek clarification of an unclear request; or
 - e. Deny the request in writing, noting the reason(s) for denial.
3. Document and track all records requests in the Agency Records Request Tracking System (ARRTS).
4. With narrow exemptions ([Public Records Act - Exemptions](#)), RCS is legally obligated to produce all existing, responsive, identifiable, public records.
5. Refer to [WAC 365-18-100](#) and [RCW 74.42.430](#) for specific record access rights for the Long-Term Care Ombuds Program (LTCOP).
6. RCS is not required to create new documents in response to a records request.
7. Redact or withhold only information that is exempt from public disclosure under [RCW 42.56.210\(2\)](#) and [WAC 388-01-120](#).
8. When providing responsive records, bates stamp and clearly identify the documents.
9. Give internal appeal rights when responding to a records request.

Supervisor Responsibilities

1. Train new staff and ensure they can demonstrate they understand the procedure.
2. Conduct periodic reviews of this procedure to ensure staff are following it correctly.

Part III: [Requests from Attorney General](#)

Overview

This section contains the SOP that all RCS staff are required to follow. The ATG has been assigned to advise and defend RCS, and therefore, all documents provided to them should be free of redactions.

Procedure

1. Requests for Administrative Appeals
 - a. Requests for Administrative Appeal records from our ATG are responded to directly by the RCS Field Office/Headquarters Unit involved.
 - b. Records provided to the ATG are sent in electronic format only. Do not provide hardcopies of RCS records. If a hardcopy is specifically requested, contact Public Disclosure & Discovery (PDD) at PDD@dshs.wa.gov for assistance/guidance.
 - c. Save an electronic copy of the records you sent as they may be requested again if/when counsel changes.
2. All other requests from the ATG must be handled by Public Disclosure & Discovery (PDD) Staff must forward all ATG requests (except Administrative Appeals requests) to PDD@dshs.wa.gov.

Supervisor Responsibilities

1. Train new staff and ensure they can demonstrate they understand the procedure.
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Part IV: [Appendices](#)

A. [Acronym List](#)

| | |
|-------|---|
| AFH | Adult Family Homes |
| APS | Adult Protective Services |
| ARRTS | Agency Records Request Tracking System |
| ATG | Attorney General |
| BAAU | Business Analysis and Applications Unit |
| CMS | Centers for Medicare & Medicaid Services |
| DDA | Developmental Disabilities Administration |
| DOH | Department of Health |
| DSA | Data Sharing Agreement |
| DSHS | Department of Social and Health Services |
| DUA | Data Use Agreement |
| EWP | Electronic Working Papers |
| FM | Field Manager |
| HCS | Home and Community Services |
| HIPAA | Health Insurance Portability and Accountability Act |
| HQ | Headquarters |
| IDR | Informal Dispute Resolution |
| LTCOP | Long-Term Care Ombuds Program |
| MFCD | Medicaid Fraud Control Division |
| MOU | Memorandum of Understanding |
| NH | Nursing Homes |
| PDD | Public Disclosure and Discovery |
| PRA | Public Records Act |
| RA | Regional Administrator |
| RCS | Residential Care Services |
| RCW | Revised Code of Washington |
| SOP | Standard Operating Procedures |
| WAC | Washington Administrative Code |
| WD | Working Day |

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B. [Change Log](#)

| Eff. Date | Chapter/ Section # | Description of Change | Reason for Change | Communication and Training Plan |
|------------|-----------------------|---|--------------------------|------------------------------------|
| 07/28/2023 | Full Chapter | Updates to requirements, transition to new format | Updated Expectations | MB R23-065 |
| 09/20/2019 | Full Chapter | Establishment of chapter | Establishment of chapter | MB R19-069 |

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