



STATE OF WISCONSIN
Department of Employee Trust Funds
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Correspondence Memorandum

Date: February 17, 2020
To: Wisconsin Deferred Compensation Board
From: Dan Hayes, Attorney
Office of Legal Services
Subject: Wisconsin Public Records Training

The Department of Employee Trust Funds requests that Deferred Compensation Board members sign and return the attached training form acknowledging they have completed a review of the Wisconsin Public Records Law Training materials.

The attached PowerPoint slides provide an overview of the provisions of the Wisconsin Public Records Law. The acknowledgement is required by the Department of Administration.

Staff will be available at the meeting to answer any questions.

Attachment A: Wisconsin Public Records Law PowerPoint
Attachment B: Wisconsin Public Records Law Training Verification Form

Reviewed and approved by David Nispel, General Counsel, Legal Services

 Electronically Signed 2/20/20

Board	Mtg Date	Item #
DC	3.12.20	9



Wisconsin Public Records Law Basics for State Employees

Presented by Wisconsin Department of Administration

Public Records (Sunshine) Laws

“The clearly stated, general presumption of our law is that all public records shall be open to the public.... This presumption reflects the basic principle that the people must be informed about the workings of their government and the openness in government is essential to maintain the strength of our democratic society.”

-Wisconsin Supreme Court, Linzmeyer v. Forcey (2002)

Every record is presumed available to the public.

Denial is limited to exceptional cases.



Your Public Records Responsibilities

1. Recognize when you have a public record.
2. Understand what is **not** a public record.
3. Understand how to properly retain public records.
4. Recognize a public records request and handle the request appropriately.
5. Know where to go for help.



Public Records Responsibility 1

Recognize when you have a public record.

Why is this important?

- Public records are property of the state .
- The law requires us to keep public records and make them available to the public.



What Is a Public Record?

Anything paper or electronic with information about government business, with a few exceptions

Public records can be paper or electronic.

Examples of electronic public records:

- Emails
- Videos
- Audio files
- Database content
- Instant messages
- Texts



Record Location

The location of the record does not matter!

Emails, text messages, or files about government business on your personal device are public records. You must keep them for the required retention period and turn them over upon request.



Public Records Responsibility 2

Understand what is not a public record.



What Is Not a Public Record?

The definition of *public record* does **not** include:

- Duplicate copies of materials. The original must be somewhere else *in your agency*. If not, the duplicate is a record and you must keep it.
- Materials that are purely personal property and have no relation to state business.
- Reference materials.
 - Phone books
 - Dictionaries
 - Vendor catalogs
- Notices or invitations that were not solicited, such as spam, junk mail, and most listservs.



What Is Not a Public Record?, Continued

The definition of *public record* does **not** include:

- Notes. Personal notes are not records if you use them only to refresh your memory and do not share them with others.
- Drafts or working papers without substantive comments, rough notes, or calculations. You must retain some drafts.
- Check with your legal counsel if you are unsure.



Public Records Responsibility 3

When you have a public record, understand how to properly retain it.

- If it **is** a public record, follow your agency's record retention schedule.
- Check with your agency's records officer(s) or records coordinator(s) to learn:
 - How long to keep records.
 - Where to send records when time expires.
- Before you get rid of a record, make sure there are no pending records requests, audits, or lawsuits that require you to hold on to it.



Key Points

Key points to remember:

- Don't delete emails or any other records unless you know that you don't need to keep them.
- Organize hard copy documents so you know where to find them if a member of the public requests them.
- Know how long you are required to keep your records and what to do with them when that time is up.



Key Points, Continued

- Keep all your emails in a place where someone can search them when requests come in.
- Manage your own emails. Don't rely on disaster recovery backup systems. If you run out of storage in your mailbox, ask your agency's help desk for assistance with .pst files or similar solutions.
- Text messages on your personal cell phone are public records if they pertain to government business.
- Emails in your personal email are public records if they pertain to government business.

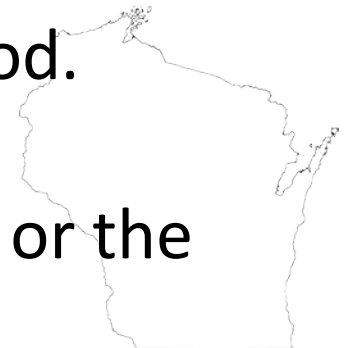


Public Records Responsibility 4

Recognize a public records request and handle the request appropriately.

A public records request:

- Is any request for government records.
- Does not require magic words or precise format.
- Can be submitted by email, by letter, by phone, in person, or by any other method.
- Can be written or verbal.
- Does not need to identify the requestor or the purpose of the request.



Public Record Request or Not?

Yes: “All emails to or from Jane Smith in August 2016 regarding the ABC construction project”

No: “Why did the state initiate the ABC construction project and when is the project expected to be complete?”



Records Custodian Responsibilities

1. Locate all records in the agency.
2. Review and remove information that is confidential under the law.
3. Tell the requestor what information is being withheld.
4. Provide the requester with regular status updates.
5. Respond as soon as practicable and without delay!



Public Records Responsibility 5

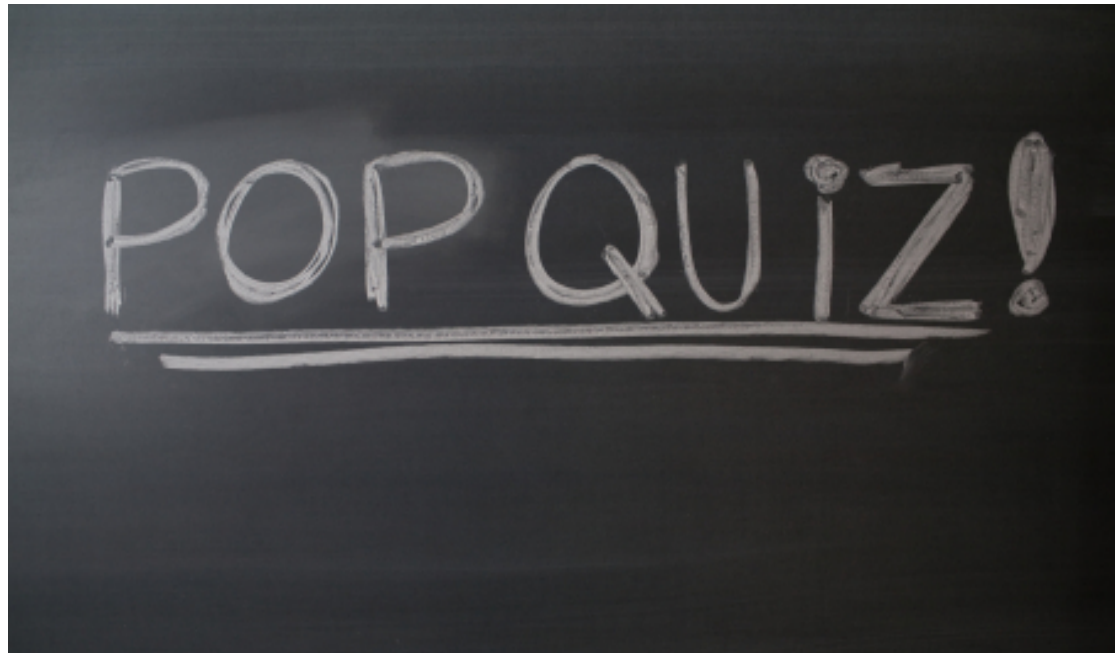
You're not in this alone! Know where to go for help.

Resources:

- Records custodian
- Records officer and records coordinators
- Agency legal counsel
- Agency public records notice
- Agency policies or manuals
- [The Wisconsin Department of Justice's Wisconsin Public Records Law Compliance Guide](#)



Assessment Introduction



Question 1: Multiple Answer

Which of the following meet the definition of a public record?

- a. Personal notes that you take in a meeting and do not share with anyone else
- b. Junk mail brochure inviting you to a seminar
- c. Email from your supervisor asking a question regarding a particular project you are working on together
- d. The dictionary you keep on your desk



Question 2: Multiple Choice

If you have a public record, how long do you need to keep it?

- a. Until you run out of room in your office
- b. As long as required by the applicable retention schedule
- c. Forever
- d. Six years



Question 3: Multiple Choice

How soon does your agency have to respond to a public records request?

- a. Within five days
- b. Immediately
- c. Once a staff member can get to it after completing all of her or his other responsibilities
- d. As soon as practicable and without delay



Question 4: Yes or No

Must a person who wishes to submit a public records request put the request in writing?

- a. Yes
- b. No



Question 5: True or False

Text messages and emails on your personal devices that discuss government business are public records.

- a. True
- b. False





Wisconsin Public Records Law Training 2019

POSITION TITLE: Board Member

EMPLOYEE NAME: _____

The Wisconsin Public Records Law training is attached. The training is designed to help you recognize when you have a public record, understand what is not a public record, understand how to properly retain public records, recognize a public records request and handle the request appropriately, and know where to go for help as a Board Member. The Wisconsin Public Records Law training must be taken by all Board Members. Please take the time to read the attached training carefully and return this signed acknowledgment to the Board Liaison at the Board meeting.

Please sign below acknowledging that you have received the contents of the Wisconsin Public Records Law training and understand the information within.

Signature

Date