



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
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 SECRETARY

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**Correspondence Memorandum**

**Date:** February 24, 2021

**To:** Employee Trust Funds Board  
 Teachers Retirement Board  
 Wisconsin Retirement Board

**From:** Cheryllynn Wilkins, Board Liaison  
 Office of the Secretary

**Subject:** Wisconsin Public Records Training

**The Department of Employee Trust Funds (ETF) requests that Board members sign and return the training verification form acknowledging completion of the Wisconsin Public Records Law Basics Training.**

The Department of Administration (DOA) requires all state employees and board members to affirm they reviewed and understand the Wisconsin Public Records Basic Law training provided.

To comply with training requirements, ETF is furnishing Board members with the materials to fulfill this obligation. A presentation related to the provisions of the Wisconsin Public Records Law is Attachment A. Please review and become familiar with the information. Upon completion of your review, sign the attached verification form and email it to the Board Liaison or send an email confirming you understand the training materials.

Staff will be available at the meeting to answer any questions

Attachment A: Wisconsin Public Records Law Basics Training Presentation  
 B: Verification of Completion Form

Reviewed and approved by Pamela Henning, Assistant Deputy Secretary

*Pamela L Henning* Electronically Signed 3/11/21

Board	Mtg Date	Item #
ETF	3.25.21	4J



# 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

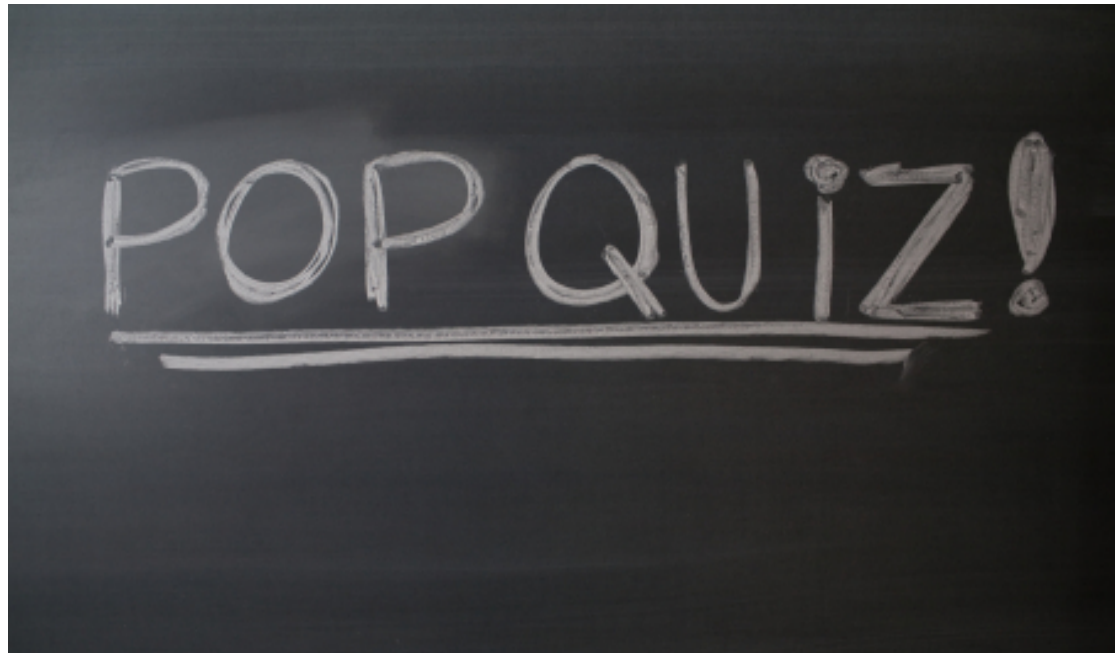
You're not in this alone! Know where to go for help.

## 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



# 2020 Wisconsin Public Records Law Basics Training Answer Key

Question 1: Which one of the following meets the definition of a public record?

Correct Answer:

Email from your supervisor asking a question regarding a particular project you are working on together

Question 2: If you have a public record, how long do you need to keep it?

Correct Answer:

As long as required by the retention schedule

Question 3: How soon does your agency have to respond to a public records request?

Correct Answer:

D. As soon as practicable and without delay

Question 4: Must a person who wishes to submit a public records request put the request in writing?

Correct Answer:

No

Question 5: Text messages and emails on your personal devices that discuss government business are public records.

Correct Answer:

True





# Wisconsin Public Records Law Training 2020

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**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