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Correspondence Memorandum

Date: February 16, 2022

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

From: Cheryllynn Wilkins, Board Liaison
Office of the Secretary

Subject: 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 Basics Law Training provided.

The Department of Employee Trust Funds (ETF) requests the board members sign and return the training form acknowledging they have completed the Wisconsin Public Records Law Basics Training.

To comply with training requirements, ETF is furnishing board members with the materials (Attachment A) to fulfill this obligation. Please complete the verification form (Attachment B) and return it to the Board Liaison. ETF anticipates future training materials will be included in board materials for the first meeting of each calendar year.

Staff will be at the meeting to answer any questions.

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

Reviewed and approved by Pamela Henning, Assistant Deputy
Secretary

Electronically Signed 3/1/22

Board	Mtg Date	Item #
JM	3.24.22	4I

2021 Wisconsin Public Records Law

1. 2021 Public Records Training

1.1 Wisconsin Public Records Law 2021 Basics for State Employees



In this course, you will learn how to comply with Wisconsin's Public Records Law and your public records responsibilities.

1.2 Public Records (Sunshine) Laws



Public records laws are also called sunshine laws. That's because the laws exist so the people of this state are not "in the dark" about the workings of the government that represents them.

According to settled law: "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 that openness in government is essential to maintain the strength of our democratic society."

The public records law requires that every record is presumed to be available to the public. Access can be denied only in exceptional cases.

1.3 Objectives

Objectives

Select each numbered item if you would like to review the objectives of this course.

Your Public Records Responsibilities

As a state employee, you have certain responsibilities. Understanding public records is one of those responsibilities.



All employees shall have the following five 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 that request appropriately.
5. Know where to go for help.


In the next slides, let's take a closer look at each of the five responsibilities.


Objective 1

Objectives

Select each numbered item if you would like to review the objectives of this course.

Recognize when you have a public record







Objective 2

Objectives

Select each numbered item if you would like to review the objectives of this course.

Understand what is NOT a public record



Objective 3

Objectives

Select each numbered item if you would like to review the objectives of this course.

Understand how to properly retain public records



Objective 4

Objectives

Select each numbered item if you would like to review the objectives of this course.

Recognize a public records request and handle the request appropriately




Objective 5

Objectives

Select each numbered item if you would like to review the objectives of this course.

Know where to go for help



1.4 When You Have a Public Record



Public Records Responsibility # 1: Recognize when you have a public record

1.5 Recognize When You Have a Public Record



Employees need to know what a public record is because public records are property of the state and the law requires us to keep public records and make them available to the public.

1.6 What Is a Public Record?

01

What Is a Public Record?



Public Records



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



01

What Is a Public Record?



Public Records




Paper Examples
Printed meeting minutes, agendas, reports, spreadsheets, posters, etc.




01






What Is a Public Record?



Public Records



Electronic Examples
Skype messages, IMs, emails, videos, Excel spreadsheets, etc.



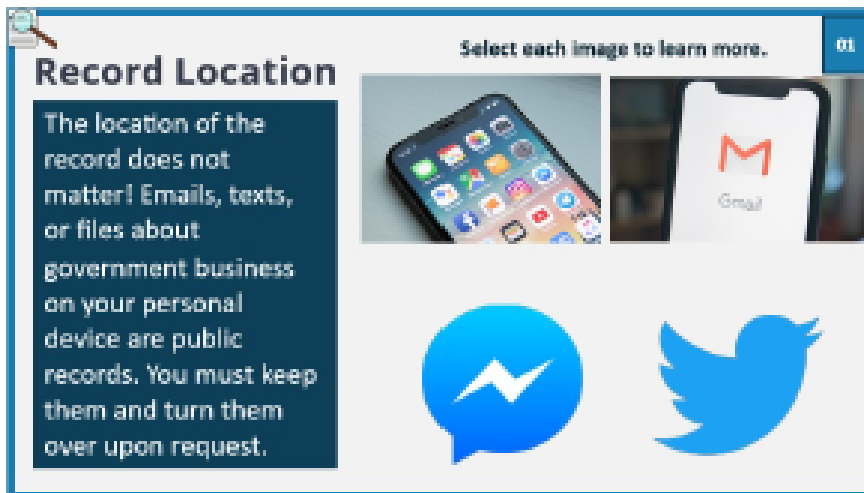
In general, a public record is anything, paper or electronic, that contains information about

government business, with only a few exceptions. It is important to remember public records can be paper or electronic.

Examples of electronic public records include the following:

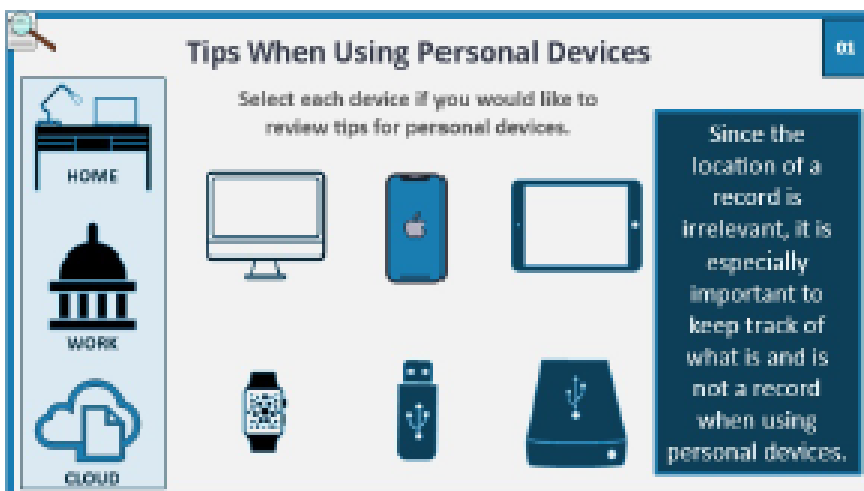
emails, videos, audio files, database content, Instant Messages and texts.

1.7 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 and turn them over upon request.

1.8 Tips When Using Personal Devices



Since the location of a record is irrelevant, it is especially important to keep track of what is and is not a record when using personal devices. Remember, if the e-mail, text, instant message, chat, post, or file is about government business, then it is a record; even if it is created or maintained on a personal device, saved on a home computer, or saved in the cloud.

Keep the following considerations in mind when using a personal device for state business:

- First, a personal device may be a computer, mobile phone, tablet, Kindle, iPad, smartwatch, or other connected device such as a cloud back-up, flash-drive, or external hard drive.
- Second, any e-mail used to conduct government business is a record, even if it is sent or received by an employee's personal e-mail account.
- Third, you must ensure any public records are properly retained if you transition to a new device.
- And lastly, materials on your personal device that are purely personal property with no relation to state business are **not** public records.

Desktop Layer



Remember, if the e-mail, text, instant message, chat, post, or file is about government business, then it is a record.

Smartphone Layer



Even if it is created or maintained on a personal device, saved on a home computer, or saved in the cloud.

Tablet Layer



A personal device may be a computer, mobile phone, tablet, Kindle, iPad, smartwatch, or other connected device such as cloud back-up, flash-drive, or external hard drive.

Smartwatch Layer

Tips When Using Personal Devices 01

Select each device if you would like to review tips for personal devices.

Any email used to conduct government business is a record, even if it is sent or received by an employee's personal email account.

Any email used to conduct government business is a record, even if it is sent or received by an employee's personal email account.

USB Layer

Tips When Using Personal Devices 01

Select each device if you would like to review tips for personal devices.

You must ensure any public records are properly retained if you transition to a new device.

You must ensure any public records are properly retained if you transition to a new device.

Hard Drive Layer



1.9 Understand What Is Not a Public Record



The law contains several exceptions to the definition of a record. This leads to Public Records Responsibility #2: Understand what is NOT a public record.

We will now review some of the more common exceptions.

1.10 What's NOT A Public Record

What's NOT A Public Record

There are many documents that you may run across in the workplace that are not public records.

Select each arc of this circle to learn about these exceptions.

Duplicates

Reference

Personal

Unsolicited

02

There are many documents that you may run across in the workplace that are not public records.

The first exception is duplicates. If you have a copy of a document that exists somewhere else in your agency, and you use the copy only for convenience or reference, the copy is not a record and you do not need to keep it.

The second exception is purely personal property that has no relation or connection to your job. This includes things such as family photos or framed diplomas that are not related to state business.

A third exception is notices or invitations that you did not solicit. Items such as spam emails, junk mail, and most listserv messages are not items that you need to retain.

A fourth exception is reference materials. This includes items such as phone books, dictionaries, and vendor catalogs.

Duplicates (Slide Layer)

 **What's NOT A Public Record** 02

There are many documents that you may run across in the workplace that are not public records.

Duplicates

Reference  Personal

Unsolicited

The original must be somewhere in your agency. If not, the duplicate is a record and you must keep it.

Personal (Slide Layer)

 **What's NOT A Public Record** 02

There are many documents that you may run across in the workplace that are not public records.

Duplicates

Reference  Personal

Unsolicited

Materials that are purely personal property and have no relation to state business

Unsolicited (Slide Layer)

 **What's NOT A Public Record** 02

There are many documents that you may run across in the workplace that are not public records.

Duplicates

Reference  Personal

Unsolicited

Notices or invitations that were not solicited, such as spam, junk mail, and most listservs

Reference (Slide Layer)

02


What's NOT A Public Record

There are many documents that you may run across in the workplace that are not public records.

Reference materials such as phone books, dictionaries, and vendor catalogs



1.11 What Else Is NOT A Public Record?


02

What Else Is NOT A Public Record?

Draft documents and notes

01

Notes – Personal notes are not records if you use them only to refresh your memory and do not share with others.



Draft documents and notes.

Notes - Personal notes are not records if you use them only to refresh your memory and do not share with others.



02

What Else Is NOT A Public Record?

Draft documents and notes

02

Drafts or working papers without substantive comments, rough notes, or calculations.



02

What Else Is NOT A Public Record?

Draft documents and notes

03

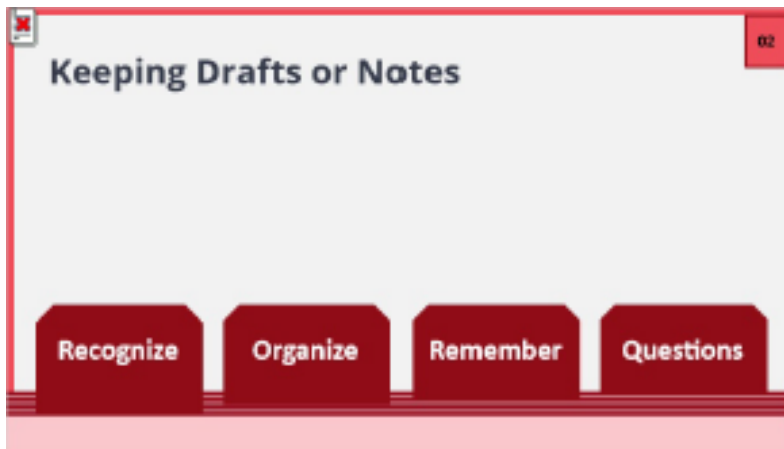
Check with your legal counsel if you are unsure.



The final exception we will discuss is for drafts and notes. The definition of public record does not include personal notes that you use only to refresh your own memory and do not share with others.

The definition of public record also does not include drafts or working papers without substantive comments, rough notes, or calculations. However, you must retain some drafts. Check with your legal counsel if you are unsure.

1.12 Tips For Keeping Drafts or Notes



Recognize

Think about which documents are personal notes, drafts, and other non-record reference materials.

Organize

It may be helpful to clearly label these, or even keep them in separate folders or envelopes solely for your own reference. Giving this some thought is important if you choose to mingle your personal notes and drafts with documents that are public records.

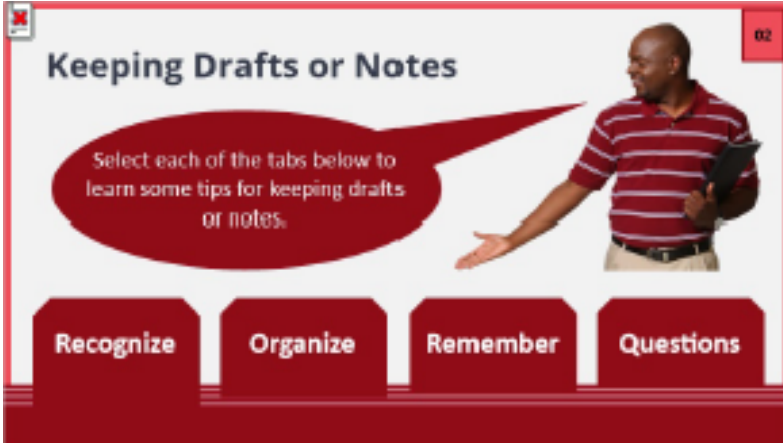
Remember

Remember, any notes or drafts that you make available for others to reference or share with others in order to communicate information may become public records. Even a sticky note may become part of the record that it is attached to, if its purpose is to communicate important information to someone else.

Questions

If you have questions about particular situations, ask your records officer or legal counsel for assistance.

Intro (Slide Layer)



Keeping Drafts or Notes

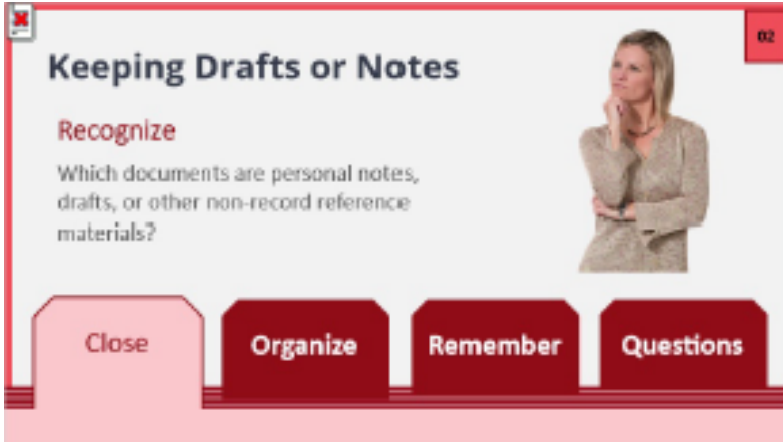
Select each of the tabs below to learn some tips for keeping drafts or notes.

Recognize Organize Remember Questions

02

The slide features a man in a red and white striped polo shirt pointing towards a red speech bubble. Below the speech bubble is a navigation bar with four red buttons labeled 'Recognize', 'Organize', 'Remember', and 'Questions'. The slide number '02' is in the top right corner.

Layer 1 (Slide Layer)



Keeping Drafts or Notes

Recognize

Which documents are personal notes, drafts, or other non-record reference materials?

Close Organize Remember Questions

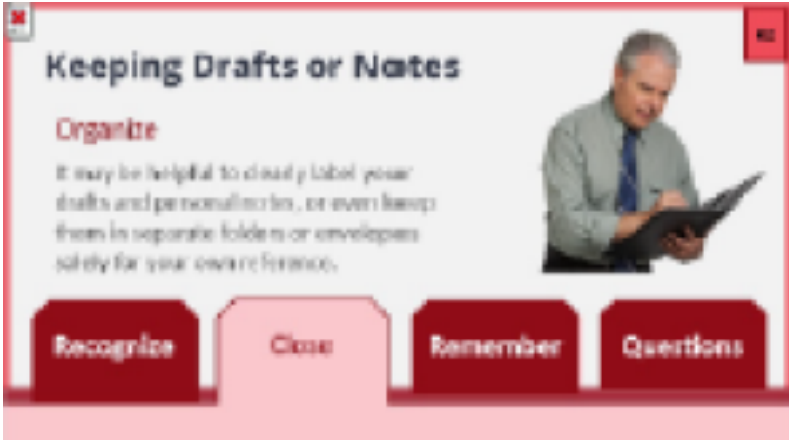
02

The slide features a woman in a grey sweater looking thoughtful. Below her is a navigation bar with four buttons: 'Close' (highlighted in light pink), 'Organize', 'Remember', and 'Questions'. The slide number '02' is in the top right corner.

Recognize

Which documents are personal notes, drafts, or other non-record reference materials.

Layer 2 (Slide Layer)



A slide titled "Keeping Drafts or Notes" with the sub-heading "Organize". The text reads: "It may be helpful to clearly label your drafts and personal notes, or even keep them in separate folders or envelopes solely for your own reference." The slide features a photograph of a man in a grey shirt and blue tie looking at a tablet. At the bottom, there are four red buttons: "Recognize", "Close", "Remember", and "Questions". The "Close" button is highlighted with a light pink glow. A small red box with the number "02" is in the top right corner.

Organize

It may be helpful to clearly label your drafts and personal notes, or even keep them in separate folders or envelopes solely for your own reference.

Layer 3 (Slide Layer)

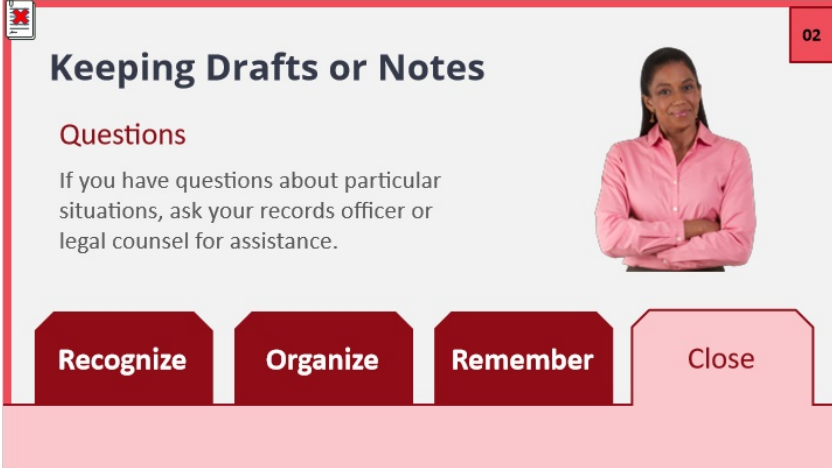


A slide titled "Keeping Drafts or Notes" with the sub-heading "Remember". The text reads: "Any notes or drafts that you make available for others to reference or share with others in order to communicate information may become public records." The slide features a photograph of a woman in a purple shirt pointing upwards. At the bottom, there are four red buttons: "Recognize", "Organize", "Close", and "Questions". The "Close" button is highlighted with a light pink glow. A small red box with the number "02" is in the top right corner.

Remember

Any notes or drafts that you make available for others to reference or share with others in order to communicate information may become public records.

Layer 4 (Slide Layer)



Keeping Drafts or Notes

Questions

If you have questions about particular situations, ask your records officer or legal counsel for assistance.

Recognize **Organize** **Remember** **Close**

02

1.13 Understand how To Retain Public Records



03

Understand How To Properly Retain Public Records

03

Public Records Responsibility #3: Understand how to properly retain public records.

1.14 How To Retain A Public Record

A background image of a calendar with dates and days of the week visible. A green banner is overlaid at the top.

How To Retain A Public Record

Record Retention Schedule

Follow your agency's Record Retention Schedule before destroying a record.

A background image of a hand holding a pen and writing on a document. A green banner is overlaid at the top.

How To Retain A Public Record

Check With Your Records Officer

- Determine how long to keep a record
- Learn where to send a record at expiration

A background image of a cardboard box filled with shredded paper. A green banner is overlaid at the top.

How To Retain A Public Record

Before You Destroy A Record

Make sure there are no pending requests, audits, or lawsuits that require you to hold onto it. Destruction can be deleting a digital file, or shredding or disposing of a physical record.

When you have a public record, know how to retain it. If you have a public record, you must keep the record as long as required by your agency's retention schedule.

It is important to check with your agency's records officer or records coordinator to find out how long you are required to keep your records and where to send them when that time runs out.

Finally, 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 the record.

1.15 Retaining Records Electronically



If you choose to retain some records exclusively in electronic format, be aware that additional rules may apply.

State administrative code requires such records to be kept in formats that are:

- accessible,
- accurate,
- authentic,
- reliable,
- legible, and
- readable throughout the record life cycle.

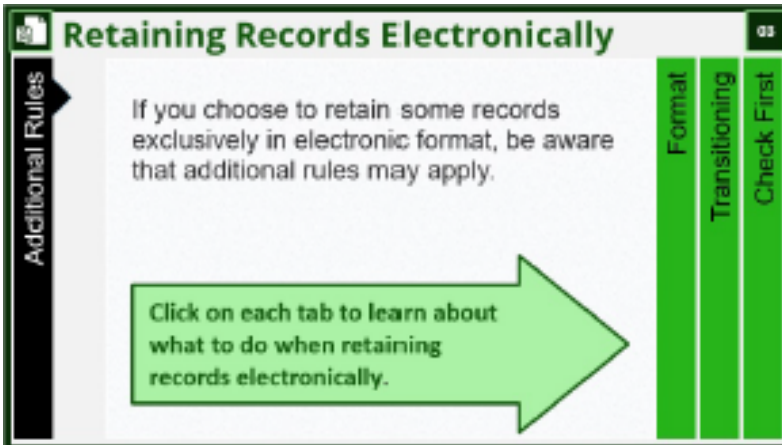
See Chapter Adm 12 of the Administrative Code for additional requirements.

Generally, using major technology systems that are pre-approved by your agency should meet these requirements.

However, if you transition from one system or device to another, it is your responsibility to ensure that your old records are retained properly.

Check with your records official or legal counsel before proceeding with any project to convert records from one format to another-including scanning paper documents into electronic format for retention in that format only.

Tab 1 (Slide Layer)



If you choose to retain some records exclusively in electronic format, be aware that additional rules may apply.

Tab 2 (Slide Layer)



State administrative code requires such records to be kept in formats that are accessible, accurate, authentic, reliable, legible, and readable throughout the record life cycle. See Chapter Adm 12 of the Administrative Code for additional requirements.


Tab 3 (Slide Layer)

Retaining Records Electronically 03

Additional Rules
Format
Transitioning

However, if you transition from one system or device to another, it is your responsibility to ensure that your old records are retained properly.

Check First




Tab 4 (Slide Layer)

Retaining Records Electronically 03

Additional Rules
Format
Transitioning
Check First

Check with your records official or legal counsel before proceeding with any project to convert records from one format to another—including scanning paper documents into electronic format for retention in that format only.



Check with your records official or legal counsel before proceeding with any project to convert records from one format to another - including scanning paper documents into electronic format for retention in that format only.

1.16 Key Points

Key Points 03

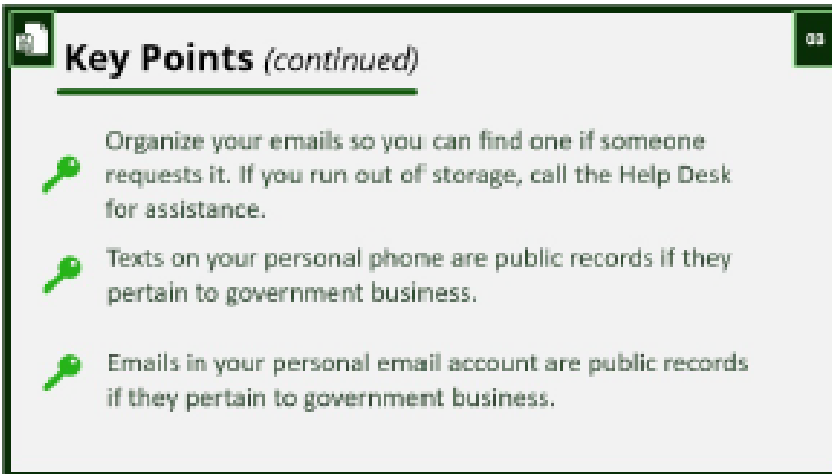
- Don't delete emails or other records unless you know you don't need to keep them.
- Organize hard copy documents so you know where to find them if the public requests them.
- Know the records retention schedule for the documents you use.

There are several important points for all employees 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.

1.17 Key Points (continued)

A slide titled "Key Points (continued)" with a green border. It contains three bullet points, each preceded by a green key icon. The first bullet point says: "Organize your emails so you can find one if someone requests it. If you run out of storage, call the Help Desk for assistance." The second bullet point says: "Texts on your personal phone are public records if they pertain to government business." The third bullet point says: "Emails in your personal email account are public records if they pertain to government business." There is a small icon in the top left corner and the number "03" in the top right corner.

Key Points (continued)

- Organize your emails so you can find one if someone requests it. If you run out of storage, call the Help Desk for assistance.
- Texts on your personal phone are public records if they pertain to government business.
- Emails in your personal email account are public records if they pertain to government business.

Organize your emails so you can find one if someone requests it. 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.

1.18 Recognize Requests

A slide with a purple background. On the left, there is a black vertical bar with the number "04" in white. The main text reads: "Recognize A Public Records Request And Handle The Request Appropriately". To the right of the text is an icon of a computer monitor with an envelope icon floating above it. There is a small icon in the top left corner and the number "04" in the top right corner.

04

Recognize A Public Records Request And Handle The Request Appropriately

Public Records Responsibility #4: Recognize a public records request and the importance of handling public records requests appropriately.

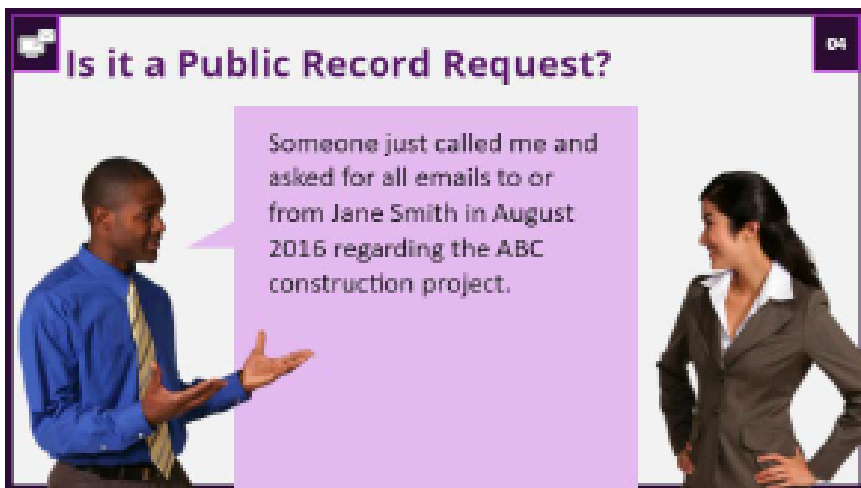
1.19 Handling A Public Records Request



Let's begin by explaining what a public records request is. A public records request is any request for government records.

It does not require magic words or precise format, and it may be submitted by email, by letter, by phone, in person, or by any other method. The request may be written or verbal. It does not need to identify the requester or the purpose of the request.

1.20 Is it a Public Records Request?



Someone just called me and asked for all emails to or from Jane Smith in August 2016 regarding the ABC construction project.



Is that a public records request?



Yes, that's a specific request for a government record.



I got a different a different call later in the day asking why the state initiated the ABC construction project and when it's expected to be complete.



Is that a public records request?



No, that's not a public records request since they didn't specifically ask for a record.

This slide contains a common scenario between two coworkers. Not all requests you receive from the public are public records requests.

You must learn the difference between a general request and a public records request and act accordingly.

QUESTION: Someone just called me and asked for all emails to or from Jane Smith in August of 2016 regarding the ABC construction project. Is that a public records request?

ANSWER: Yes, that is a specific request for a government record.

QUESTION: I got a different call later in the day asking why the state initiated the ABC construction project and when it's expected to be complete. Is that a public records request?

ANSWER: No, that's not a public records request since they didn't specifically ask for a record.

1.21 Records Custodian Responsibilities

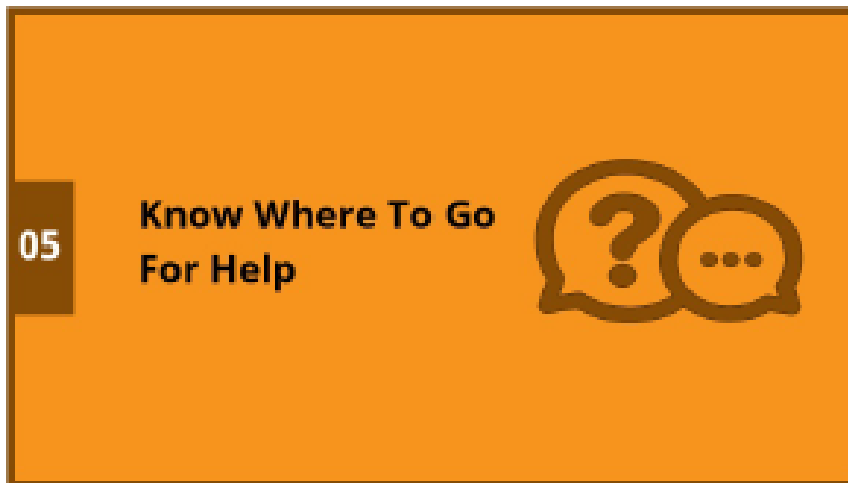


It is the responsibility of the records custodians to:

1. Locate all records in the agency that are responsive to the request
2. Review and remove information that is confidential under the law, and
3. Tell the requester what you are withholding.
4. Provide the requester with regular updates on the status of the request.

Respond as soon as practicable and without delay!

1.22 Know Where To Go For Help



Your fifth and final public records responsibility is: Know where to go for help.

1.23 Finding Help



You have a variety of resources available if you have questions or would like to learn more about the public records law. These resources include your agency's records custodian, your agency's records officer and coordinators, your agency's legal counsel, and your agency's public records notices. Many agencies also have policies or manuals available to employees to further explain public records responsibilities.


Finally, the Wisconsin Department of Justice regularly publishes a public records compliance guide. You can find this guide by visiting the DOJ website or by selecting the link on this slide.

A (Slide Layer)

Finding Help 05

Records Custodian, Officer, or Coordinator

You're not in this alone!




B (Slide Layer)

Finding Help 05

Agency Legal Counsel

You're not in this

Select each question mark if you would like to review where to go for help.



C (Slide Layer)

Finding Help 05

Agency Public Records Notice

You're not in this alone!



D (Slide Layer)

Finding Help

Agency Policies or Manuals

You're not in this alone!

E (Slide Layer)

Finding Help

Wisconsin DOJ's Public Records Law Guide

You're not in this alone!

2. Quiz

2.1 Quiz

06

Quiz

If you have problems with your browser while taking the quiz, try using a different browser if allowed by your agency.

Now it's time for a short quiz. You must answer 3 of 5 questions correctly to pass. You must pass the quiz to receive credit for taking the course.

2.2 Question 1

(Multiple Choice, 10 points, 1 attempt permitted)



Which one of the following meets the definition of a public record?

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

Feedback when correct:

That's right! Only the email regarding work is a public record.

Feedback when incorrect:


You did not select the correct response. Personal notes, solicitations, and reference materials are not public records.

Notes:

2.3 Question 2

(Multiple Choice, 10 points, 1 attempt permitted)

2. Multiple Choice



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

- Until you run out of room in your office
- As long as required by the retention schedule
- Forever
- Six years

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

Correct	Choice
	Until you run out of room in your office
X	As long as required by the retention schedule
	Forever
	Six years

Feedback when correct:

That's right! You selected the correct response.

Feedback when incorrect:

You did not select the correct response. Each public record has a retention schedule and you must follow it.

2.4 Question 3

(Pick One, 10 points, 1 attempt permitted)

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
- E All of the above

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

Correct	Choice
	Choice A
	Choice B
	Choice C
X	Choice D
	Choice E

Feedback when correct:

That's right! You selected the correct response.


Feedback when incorrect:

You did not select the correct response. You must respond to public records requests as soon as practicable.

2.5 Question 4

(Multiple Choice, 10 points, 1 attempt permitted)

4. Yes or No



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

Yes

No

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

Correct	Choice
	Yes
X	No

Feedback when correct:

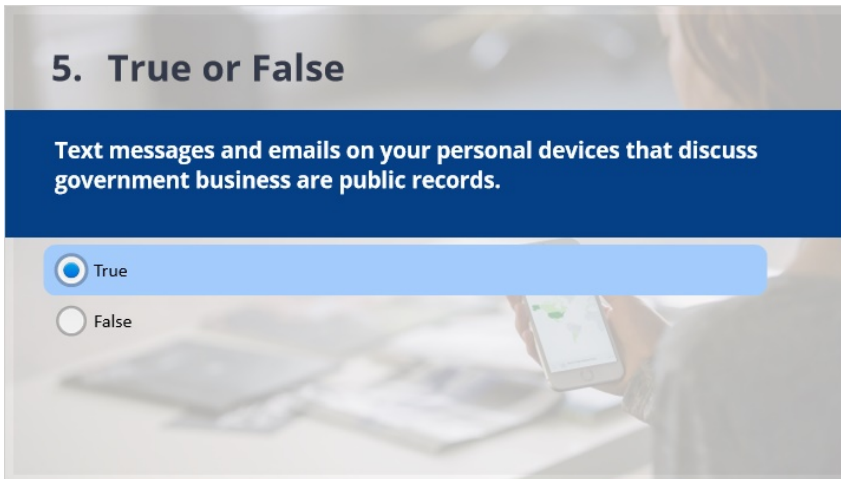
That's right! You selected the correct response.

Feedback when incorrect:

You did not select the correct response. Public records requests can be verbal or in writing.

2.6 Question 5

(Multiple Choice, 10 points, 1 attempt permitted)



5. True or False

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

True

False

True or false: text messages and emails on your personal devices that discuss government business are public records?

Correct	Choice
X	True
	False

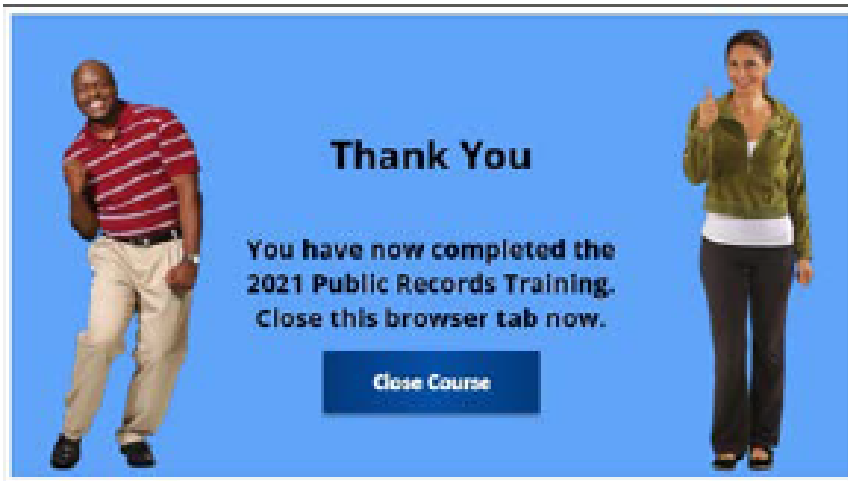
Feedback when correct:

That's right! You selected the correct response.

Feedback when incorrect:

You did not select the correct response. Texts or emails on personal devices regarding government business are public records.

2.8 Thank You



You have now completed the Public Records Training.



Wisconsin Public Records Law Training 2021

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