

## ARTICLE 2 - PUBLIC RECORDS

**16-4-201. Definitions; short title; designation of ombudsman.**

(a) As used in this act:

(i) "Custodian" means the official custodian or any authorized person having personal custody and control of the public records in question;

(ii) "Official custodian" means any officer or employee of a governmental entity, who is responsible for the maintenance, care and keeping of public records, regardless of whether the records are in his actual personal custody and control;

(iii) "Person in interest" means the person who is the subject of a record or any representative designated by the person, except if the subject of the record is under legal disability or is the dependent high school student of his parents, "person in interest" means the parent or duly appointed legal representative;

(iv) "Political subdivision" means every county, city and county, city, incorporated and unincorporated town, school district and special district within the state;

(v) "Public records" when not otherwise specified includes any information in a physical form created, accepted, or obtained by a governmental entity in furtherance of its official function and transaction of public business which is not privileged or confidential by law. Without limiting the foregoing, the term "public records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a governmental entity in furtherance of the transaction of public business of the governmental entity, whether at a meeting or outside a meeting. Electronic communications solely between students attending a school in Wyoming and electronic communications solely between students attending a school in Wyoming and a sender or recipient using a nonschool user address are not a public record of that school. As used in this paragraph, a "school in Wyoming" means the University of Wyoming, any community college and any public school within a school district in the state;

(vi) Public records shall be classified as follows:

(A) "Official public records" includes all original vouchers, receipts and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which a governmental entity is a party; all fidelity, surety and performance bonds; all claims filed against a governmental entity; all records or documents required by law to be filed with or kept by a governmental entity of Wyoming; and all other documents or records determined by the records committee to be official public records;

(B) "Office files and memoranda" includes all records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, or documents not defined and classified in subparagraph (A) of this subsection as official public records; all duplicate copies of official public records filed with any governmental entity; all documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with the office; and all other documents or records, determined by the records committee to be office files and memoranda.

(vii) Repealed By Laws 2012, Ch. 74, 2.

(viii) "This act" means W.S. 16-4-201 through 16-4-205;

(ix) "Application" means a written request for a public record. However, a designated public records person may in his discretion deem a verbal request to be an application;

(x) "Information" means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form;

(xi) "Peace officer recording" means any audio or video data recorded by a peace officer, as defined in W.S. 6-1-104(a)(vi), on a camera or other device which is:

(A) Provided to or used by the peace officer in the course of the officer performing official business; and

(B) Designed to be worn on the peace officer's body or attached to a vehicle, as defined in W.S. 6-1-104(a)(xi), used by the officer.

(xii) "Designated public records person" means the person designated as required by W.S. 16-4-202(e) or that person's designee;

(xiii) "Governmental entity" means the state of Wyoming, an agency, political subdivision or state institution of Wyoming;

(xiv) "Ombudsman" means the person designated by the governor as required by subsection (c) of this section.

(b) This act shall be known and may be cited as the "Public Records Act."

(c) The governor shall designate an ombudsman for purposes of this act. The ombudsman shall:

(i) Receive complaints as provided under this act;

(ii) Upon request of either party, mediate disputes between a governmental entity and an applicant for a public record;

(iii) Keep confidential all records submitted by a governmental entity;

(iv) Provide uniform interpretation and training on the ombudsman's role and recommendations under this act to governmental entities and the general public;

(v) Have other authority and duties as provided in this act.

**16-4-202. Right of inspection; rules and regulations; unavailability; training.**

(a) All public records shall be open for inspection by any person at reasonable times, during business hours of the governmental entity, except as provided in this act or as otherwise provided by law, but the governmental entity may make rules and regulations with reference to the inspection of the records as is reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the governmental entity. All applications for public records shall be made to the designated public records person.

(b) If the public records requested are not in the custody or control of the governmental entity to whom application is made, the designated public records person shall notify the applicant within seven (7) business days from the date of acknowledged receipt of the request of the unavailability of the records sought and provide the name and contact information of the appropriate designated public records person if known.

(c) If the public records requested are in the custody and control of the governmental entity to whom application is made, the following shall apply:

(i) If the records are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the designated public records person shall immediately forward the request to the custodian or authorized person having personal custody and control of the public records and shall notify the applicant of this situation within seven (7) business days from the date of acknowledged receipt of the request;

(ii) If a public record is readily available, it shall be released immediately to the applicant so long as the release does not impair or impede the governmental entity's ability to discharge its other duties;

(iii) All public records shall be released not later than thirty (30) calendar days from the date of acknowledged receipt of the request unless good cause exists preventing release as authorized by paragraph (iv) of this subsection;

(iv) If good cause exists preventing release within the time period specified in paragraph (iii) of this subsection, the public

records shall be released on a specified date mutually agreed to by the applicant and the governmental entity. If a release date cannot be agreed upon, the applicant may file a complaint with the ombudsman as provided by paragraph (v) of this subsection;

(v) The applicant may at any time file a complaint with an ombudsman designated by the governor or may petition the district court for a determination as to whether the custodian has demonstrated good cause. In determining whether good cause existed, the ombudsman or district court may consider whether the records are privileged or confidential by law or whether release of the records impairs or impedes the governmental entity's ability to discharge its other duties. The ombudsman or the district court shall review the records in camera and determine whether redaction of privileged or confidential information would permit release of the records.

(d) If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester. Electronic record inspection and copying shall be subject to the following:

(i) The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services;

(ii) A governmental entity shall provide an electronic record, if requested, in alternative electronic file types unless doing so is impractical or impossible;

(iii) A governmental entity shall not be required to compile data, extract data or create a new document to comply with an electronic record request;

(iv) A governmental entity shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained;

(v) Nothing in this section shall prohibit the governor from enacting any rules pursuant to his authority under W.S. 19-13-104(c)(i).

(e) Each governmental entity shall designate a person to receive all applications for public records. The designated public records person shall be an employee, officer, contractor or agent of the governmental entity. The governmental entity shall submit the name, business email address and business mailing address of the designated public records person to the department of administration and information for publication on the department of administration and information official website. The designated public records person shall serve as a point of contact between the governmental entity and applicants seeking public records.

**16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.**

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

(i) The inspection would be contrary to any state statute;

(ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or

(iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, the attorney general, the state auditor, police department, upon approval by the attorney general the department of corrections investigation services unit or any investigatory files compiled for any other law enforcement or prosecution purposes;

(ii) Test questions, scoring keys and other examination data pertaining to administration of a licensing examination and examination for employment or academic examination. Written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the examination has been conducted and graded;

(iii) The specific details of bona fide research projects being conducted by a governmental entity or any other person;

(iv) Except as otherwise provided by Wyoming statutes or for the owner of the property, the contents of real estate appraisals made for the governmental entity, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the governmental entity. The contents of the appraisal shall be available to the owner of the property or property interest at any time;

(v) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency;

(vi) To the extent that the inspection would jeopardize the security of any structure owned, leased or operated by a governmental entity, facilitate the planning of a terrorist attack or endanger the life or physical safety of an individual, including:

(A) Vulnerability assessments, specific tactics, emergency procedures or security procedures contained in plans or procedures designed to prevent or respond to terrorist attacks or other security threats;

(B) Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records that reveal the building's or structure's internal layout, specific location, life and safety and support systems, structural elements, surveillance techniques, alarms, security systems or technologies, operational and transportation plans or protocols, personnel deployments for airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums and waste and water systems;

(C) Records of any other building or structure owned, leased or operated by a governmental entity that reveal the building's or structure's life and safety systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols or personnel deployments; and

(D) Records prepared to prevent or respond to terrorist attacks or other security threats identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities or laboratories established, maintained, or regulated by a governmental entity.

(vii) An application for the position of president of an institution of higher education, letters of recommendation or references concerning the applicant and records or information relating to the process of searching for and selecting the president of an institution of higher education, if the records or information could be used to identify a candidate for the position. As used in this paragraph "institution of higher education" means the University of Wyoming and any community college in this state;

(viii) Sensitive wildlife location data in the custody of the game and fish department which could be used to determine the specific location of an individual animal or a group of animals.

(c) If the right of inspection of any record falling within any of the classifications listed in this section is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

(i) Medical, psychological and sociological data on individual persons, exclusive of coroners' verdicts and written dockets as provided in W.S. 7-4-105(a);

(ii) Adoption records or welfare records on individual persons;

(iii) Personnel files except those files shall be available to the duly elected and appointed officials who supervise the work of the person in interest and those portions of files specified in W.S. 9-1-704(m), 9-1-708(h) and 9-1-710(o) that are specifically related to a complaint shall be available and provided to the peace officer standards and training commission in accordance with W.S. 9-1-704(m), 9-1-708(h) and 9-1-710(o). Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work. Employment contracts, working agreements or other documents setting forth the terms and conditions of employment of public officials and employees are not considered part of a personnel file and shall be available for public inspection;

(iv) Letters of reference;

(v) Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person;

(vi) Library, archives and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of the contributions;

(vii) Hospital records relating to medical administration, medical staff, personnel, medical care and other medical information, whether on individual persons or groups, or whether of a general or specific classification;

(viii) School district records containing information relating to the biography, family, physiology, religion, academic achievement and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him;

(ix) Library patron transaction and registration records except as required for administration of the library or except as requested by a custodial parent or guardian to inspect the records of his minor child;

(x) Information obtained through a 911 emergency telephone system or through a verification system for motor vehicle insurance or bond as provided under W.S. 31-4-103(e) except to law enforcement personnel or public agencies for the purpose of conducting official business, to the person in interest, or pursuant to a court order;

(xi) Records or information compiled solely for purposes of investigating violations of, and enforcing, internal personnel rules or personnel policies the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(xii) Information regarding the design, elements and components, and location of state information technology security systems and physical security systems;

(xiii) Records or information relating to individual diagnoses of contagious, infectious, communicable, toxic and genetic diseases maintained or collected by the Wyoming state veterinary laboratory as provided in W.S. 21-17-308(e);

(xiv) Information concerning an agricultural operation, farming or conservation practice, a surface or subsurface resource or the land itself, if the information was provided by an agricultural producer or owner of agricultural land in order to participate in a program of a governmental entity. The custodian shall also deny the right of inspection to geospatial information maintained about the agricultural land or operations. Provided, however, that if otherwise permitted by law, the inspection of the information described in this paragraph shall be allowed in accordance with the following:

(A) The custodian may allow the right of inspection when responding to a disease or pest threat to agricultural operations, if the custodian determines that a threat to agricultural operations exists and the disclosure of information is necessary to assist in responding to the disease or pest threat as authorized by law;

(B) The custodian shall allow the right of inspection of payment information under a program of a governmental entity, including the names and addresses of recipients of payments;

(C) The custodian shall allow the right of inspection if the information has been transformed into a statistical or aggregate form without naming:

(I) Any individual owner, operator or producer; or

(II) A specific data gathering site.

(D) The custodian shall allow the right of inspection if the disclosure of information is pursuant to the consent of the agricultural producer or owner of the agricultural land;

(E) As used in this paragraph:

(I) "Agricultural operation" means the production and marketing of agricultural products or livestock;

(II) "Agricultural producer" means any producer of livestock, crops or dairy products from an agricultural operation.

(xv) Within any record held by a governmental entity, any income tax return or any individual information derived by the governmental entity from an income tax return, however information derived from these documents may be released if sufficiently aggregated



or redacted so that the persons or entities involved cannot be identified individually;

(xvi) Except as required in a contested case hearing, any individual records involved in any workers compensation claim, however information derived from these documents may be released if sufficiently aggregated or redacted so that the persons or entities involved cannot be identified individually;

(xvii) Any records of the consensus revenue estimating group as defined in W.S. 9-2-1002, that discloses information considered by, or deliberations or tentative decisions of, the group;

(xviii) Information obtained through a peace officer recording provided that:

(A) The custodian shall allow the right of inspection to law enforcement personnel or public agencies for the purpose of conducting official business or pursuant to a court order;

(B) The custodian may allow the right of inspection:

(I) To the person in interest;

(II) If the information involves an incident of deadly force or serious bodily injury as defined in W.S. 6-1-104(a)(x);

(III) In response to a complaint against a law enforcement personnel and the custodian of the information determines inspection is not contrary to the public interest;

(IV) In the interest of public safety.

(xix) Any records of the investment funds committee, created by W.S. 9-4-720, that disclose information considered by the committee, committee deliberations or tentative decisions of the committee;

(xx) Information related to legally taking wildlife as provided in W.S. 23-1-302(r).

(e) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.

(f) Any person aggrieved by the failure of a governmental entity to release records on the specified date mutually agreed upon pursuant to W.S. 16-4-202(c)(iv) or by the failure of a governmental entity to comply with an order of the ombudsman pursuant to W.S. 16-4-202(c)(v) may:

(i) Apply to the district court of the district wherein the record is found for an order to direct the custodian of the record to show cause why he should not permit the inspection of the record and to

compel production of the record if applicable. An order issued by the district court under this paragraph may waive any fees charged by the state governmental entity;

(ii) File a complaint with the ombudsman who may:

(A) Mediate disputes between the governmental entity and the person;

(B) Prescribe timelines for release of the records;

(C) Waive any fees charged by the governmental entity.

(g) If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure. After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

(h) Notwithstanding any other provision of this section, the following applies to the Wyoming natural diversity database located at the University of Wyoming and any report prepared by the custodian from that database:

(i) The custodian may charge a reasonable fee for searching the database and preparing a report from that database information. The interpretation of the database in a report shall not contain recommendations for restrictions on any public or private land use;

(ii) The custodian shall allow the inspection of all records in the database at a level of spatial precision equal to the township, but at no more precise level;

(iii) Research reports prepared by the custodian funded completely from nonstate sources are subject to paragraph (b)(iii) of this section;

(iv) Any record contained in the database pertaining to private land shall not be released by the University of Wyoming without the prior written consent of the landowner. Nothing in this paragraph prohibits the release of any information which would otherwise be available from any other information source available to the public if the original source is cited.

**16-4-204. Right of inspection; copies, printouts or photographs; fees.**

(a) In all cases in which a person has the right to inspect and copy any public records he may request that he be furnished copies, printouts or photographs for a reasonable fee to be set by the official custodian. Where fees for certified copies or other copies, printouts or photographs of the record are specifically prescribed by law, the specific fees shall apply. Nothing in this section shall be construed as authorizing a fee to be charged as a condition of making a public record available for inspection.

(b) If the custodian does not have the facilities for making copies, printouts or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the records are in the possession, custody and control of the custodian thereof and are subject to the supervision of the custodian. When practical the copy work shall be made in the place where the records are kept, but if it is impractical to do so, the custodian may allow arrangements to be made for this purpose. If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout or photograph of the records. The official custodian may establish a reasonable schedule of time for making copies, printouts or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing out or photographing as he may charge for furnishing copies under this section.

(c) After July 1, 2003, any fees or charges assessed by a custodian of a public record shall first be authorized by duly enacted or adopted statute, rule, resolution, ordinance, executive order or other like authority.

(d) All state agencies may adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act establishing reasonable fees and charges that may be assessed for the costs and services set forth in this section.

(e) The department of administration and information shall adopt uniform rules for the use of state agencies establishing procedures, fees, costs and charges for inspection, copies and production of public records under W.S. 16-4-202(d)(i), 16-4-203(h)(i) and 16-4-204.

#### **16-4-205. Penalties; remedies.**

Any person who knowingly or intentionally violates the provisions of this act is liable for a penalty not to exceed seven hundred fifty dollars (\$750.00). The penalty may be recovered in a civil action and damages may be assessed by the court.