

# Records Exempt from Disclosure Requirements

## Pursuant to General Court Rule 31.1

### **ADMINISTRATIVE RECORDS SPECIFICALLY EXEMPTED UNDER GR 31.1**

**Administrative Records—General Right of Access.** Court and judicial agency administrative records are accessible to the public unless access is exempted or prohibited under GR 31.1, other court rules, federal statutes, state statutes, court orders, or case law.

In addition, the following **EXEMPTIONS** are specifically set forth under GR 31.1:

- A request for a judicial ethics opinion.
- Minutes of meetings held exclusively among judges, along with any staff.

*Caveat: Exemption merely means that a document is not required to be disclosed. Disclosure would be appropriate if the document does not contain information of a confidential, sensitive, or protected nature. Courts and judicial agencies are encouraged to carefully consider whether some, or all, of their meeting minutes should be open to public access.*
- Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended.
  - A specific record is not exempt if it is publicly cited by a court or agency in connection with any court or agency action.
  - This exemption applies to a record only while a final decision is pending on the issue that is being addressed in that record; once the final decision has been made, the record is no longer exempt.
  - When considering records related to budget negotiations with a budgetary authority, the “final decision” is the decision by the budgetary authority to adopt the budget for that year or biennium.
- Evaluations and recommendations concerning candidates seeking appointment or employment within a court or judicial agency.

*This includes documents such as those of the Supreme Court’s Capital Counsel Committee, which evaluates attorneys for potential inclusion on a list of attorneys who are specially qualified to represent clients in capital cases.*

- Personal identifying information, including individuals' home contact information, Social Security numbers, driver's license numbers, and identification/security photographs.
- Records related to an attorney's request for a trial or appellate court defense expert, investigator, or other services, any report or findings submitted to the attorney or court or judicial agency by the expert, investigator, or other service provider, and the invoicing of the expert, investigator or other service provider during the pendency of the case in any court.

*Payment records are not exempt, but cannot include medical records, attorney work product, information protected by attorney-client privilege, information sealed by a court, or any other exempt information.*

- Any records, including the complaint and the identity of the complainant, associated with a court or judicial branch agency's internal investigation of a complaint against the court or judicial branch agency or its contractors during the course of the investigation. The outcome of the court or judicial agency's investigation is not exempt.
- Family court mediation files.
- Juvenile court probation social files.
- Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans, the disclosure of which would have a substantial likelihood of threatening the security of a judicial facility or any individual's safety.
- To prevent a significant risk to individual privacy or safety interests, identifying details should be redacted.

## **CHAMBERS RECORDS ARE NOT SUBJECT TO DISCLOSURE**

GR 31.1 states that "chambers records" are not administrative records and are not subject to disclosure. GR 31.1(m)

- "Chambers record" means any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities.

*"Chambers staff" means a judicial officer's law clerk, bailiff, intern(s), and any other staff who may provide support directly to the judicial officer.*

- Court records and administrative records do not become chambers records merely because they are in the possession or custody of a judicial officer or chambers staff. GR 31.1(m)(2)

## ***PUBLIC RECORDS ACT EXEMPTIONS***

Under GR 31.1 (j), “Court and judicial agency administrative records are open to public access unless access is exempted or prohibited under this rule, other court rules, federal statutes, state statutes, court orders, or case law. To the extent that records access would be exempt or prohibited if the Public Records Act applied to the judiciary’s administrative records, access is also exempt or prohibited under this rule. The following are examples of some PRA exemptions regularly encountered by a Public Records Officer. The list is not meant to be all-inclusive.

### **EXAMPLES OF PUBLIC RECORDS ACT EXEMPTIONS**

- Providing any list of individuals requested for commercial purposes is prohibited unless authorized by law. [RCW 42.56.070](#)(9)

*A court or judicial branch agency may condition access to an administrative record containing a list of individuals on the requester’s promise that the record will not be used for a commercial purpose. This condition can be standard language that is included on the administrative records request form.*

- Name of a complainant or witness when the person is a victim or a witness to a crime, has made a complaint to law enforcement, or disclosure would endanger any person’s life, physical safety, or property. [RCW 42.56.240](#)(2), (5), (8)
- The name and identifying information of a public agency employee who sought advice through an informal process to determine the employee’s rights under RCW 49.60 (the Washington Law Against Discrimination) and the employee requests identifying information not be disclosed. [RCW 42.56.250](#)(4)
- Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy. [RCW 42.56.230](#)(3). However, personnel records are not categorically exempt. To be exempt the disclosure must relate to personal information within the personnel records that would invade an individual’s right to privacy as defined in [RCW 42.56.050](#). The following employee information is generally **EXEMPT**:
  - The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency
  - Number of exemptions (dependents)
  - Driver’s licenses

- Withholding status
- Employee's bank name
- Shared leave given by a donor (charitable contribution)
- Information under employee deductions: i.e. – name of health/dental plans, garnishment/child support, deferred compensation, retirement plan, etc.
- Union dues
- Charitable contributions
- Disabilities
- Medical records, including medical reasons for sick leave, shared leave received, FMLA, RA, etc.
- Sensitive records relating to health, marital and family information necessary for calculating health plans, job benefits and taxes
- Performance evaluations of court staff or judicial branch employees unless related to specific misconduct
- Unsubstantiated allegations of governmental misconduct made against an identified employee if release of the information would be highly offensive to a reasonable person (e.g. sexual misconduct). This is to be determined on a case-by-case basis.

The employee information listed above is generally exempt because disclosure would violate the employee's right to privacy, i.e. – it would be highly offensive to a reasonable person and not be of legitimate public concern.

The employee information listed below is generally **NOT EXEMPT**:

- Salary, including increases
- Employee personnel/identification number
- Hours worked, including overtime
- Types of leave taken: vacation/annual, comp time, LWOP, TSR, PLD, personal holiday, sick (though probably not the illness)
- Fringe benefits
- Outside employment
- Training records
- Letters of commendation
- Job description
- Classification questionnaire
- PDFs (position description forms)
- Letters of appointment
- Separation or other changes in the status of an employee
- Performance awards
- Anniversary date, including PID
- Shared leave received
- FMLA leave taken

These types of employee information are not exempt because the release of this information would generally NOT violate the right to privacy, i.e. – it would not be highly offensive to a reasonable person and is of legitimate public concern.

### **OTHER COMMON EXEMPTIONS UNDER THE PRA**

- Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers. [RCW 42.56.230\(6\)](#)
- Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard. [RCW 42.56.230\(7\) \(a\)](#)
- Information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals other than final orders from the board of industrial insurance appeals. [RCW 42.56.230\(8\)](#)

### **EXEMPTIONS THAT APPLY TO THE CERTIFIED PROFESSIONAL GUARDIAN BOARD**

- The following records of the Certified Professional Guardian Board are exempt per GR 31.1(l)(12):
  - (i) Investigative records compiled by the Board as a result of an investigation conducted by the Board as part of the application process, while a disciplinary investigation is in process under the Board's rules and regulations, or as a result of any other investigation conducted by the Board while an investigation is in process. Investigative records related to a grievance become open to public inspection once the investigation is completed.
  - (ii) Deliberative records compiled by the Board or a panel or committee of the Board as part of a disciplinary process.
  - (iii) Investigation into a grievance.

Once the grievance has been completed or once a decision has been made that no investigation will be conducted, the grievance shall be open to public access, along with any response to the grievance submitted by the professional guardian or agency. The name of the professional guardian or agency shall not be redacted from the grievance.