

Subject: Washington Public Records Act Request: KENT SCHOOL DISTRICT – Agency Costs Fulfilling Public Records Requests Including Litigation (2019-2022) Missing JLARC REPORTS

Date: Mon, 28 Nov 2022 18:22:58 -0000

From: 137393-83396006@requests.muckrock.com

To: PublicRecords@kent.k12.wa.us

Kent School District
Washington Public Records Act Office
12033 SE 256th Street #A-100
Kent, WA 98030-6503

November 28, 2022

KENT SCHOOL DISTRICT – Agency Costs Fulfilling Public Records Requests Including Litigation (2019-2022) Missing JLARC REPORTS

Via email: PublicRecords@Kent.k12.wa.us

To whom it may concern,

Upon information and belief, the Kent School District is in violation of RCW 40.14.026(5) for the years 2020 and 2021.

RCW 40.14.026(5)

“To improve best practices for dissemination of public records, each agency with actual staff and legal costs associated with fulfilling public records requests of at least one hundred thousand dollars during the prior fiscal year must... report to the joint legislative audit and review committee by July 1st of each subsequent year the following metrics, measured over the preceding year:

RCW 40.14.026(5)(l)

(l) The estimated costs incurred by the agency in fulfilling records requests, including costs for staff compensation and legal review, and a measure of the average cost per request;

RCW 40.14.026(5)(o)

(o) The costs incurred by the agency with managing and retaining records, including staff compensation and purchases of equipment, hardware, software, and services to manage and retain public records or otherwise assist in the fulfillment of public records requests;

PUBLIC RECORDS REQUEST RCW 42.56

I request the following identifiable public records to be produced in the following order of production, newest to oldest by year:

1. Please provide all "Public Records" (as defined by WAC 44-14-03001) available detailing costs incurred by your agency in fulfilling records requests, including staff compensation, legal review, and any public records related litigation costs for the year 2022.

Responsive public records should include but are not limited to:

Supplies and services external services (e.g., printing services, large format printing)
Mailing costs, supplies (CDs, DVDs, USB sticks, etc.)
Software licensing, and other professional services
Agency staff costs
Legal costs – including all litigation
Legal settlements related to public records requests litigation of any kind
Costs of staff time associated with invoicing and collection

2. Please provide all "Public Records" (as defined by WAC 44-14-03001) available detailing costs incurred by your agency in fulfilling records requests, including staff compensation, legal review, and any public records related litigation costs for the year 2021.

Responsive public records should include but are not limited to:

Supplies and services external services (e.g., printing services, large format printing)
Mailing costs, supplies (CDs, DVDs, USB sticks, etc.)
Software licensing, and other professional services
Agency staff costs
Legal costs – including all litigation
Legal settlements related to public records requests litigation of any kind
Costs of staff time associated with invoicing and collection

3. Please provide all "Public Records" (as defined by WAC 44-14-03001) available detailing costs incurred by your agency in fulfilling records requests, including staff compensation, legal review, and any public records related litigation costs for the year 2020.

Responsive public records should include but are not limited to:

Supplies and services external services (e.g., printing services, large format printing)
Mailing costs, supplies (CDs, DVDs, USB sticks, etc.)
Software licensing, and other professional services
Agency staff costs
Legal costs – including all litigation
Legal settlements related to public records requests litigation of any kind
Costs of staff time associated with invoicing and collection

4. Please provide all "Public Records" (as defined by WAC 44-14-03001) available detailing costs incurred by your agency in fulfilling records requests, including staff compensation, legal review, and any public records related litigation costs for the year 2019.

Responsive public records should include but are not limited to:

Supplies and services external services (e.g., printing services, large format printing)

Mailing costs, supplies (CDs, DVDs, USB sticks, etc.)

Software licensing, and other professional services

Agency staff costs

Legal costs – including all litigation

Legal settlements related to public records requests litigation of any kind

Costs of staff time associated with invoicing and collection

RECORDS INSTALLMENTS

If production of responsive records will be completed in multiple installments, please begin by producing records in the numerical order requested by subject matter and year. The most recent public records should be produced first.

PRODUCTION AND DELIVERY OF ELECTRONIC RECORDS

The use of 3rd party “portals” (Such as GOVQA or NEXTREQUEST) for communication and production of records in response to a public records request is optional for the requestor in the State of Washington. Respectfully we decline to use any 3rd party "portal" system, specifically GOVQA and NEXTREQUEST. Please provide all records electronically via direct email attachment, or via no password, no registration internet cloud-based download link.

Please do not direct or invite us to use, register for, or communicate with your agency via any 3rd party portal including but not limited to FOIAOnline, GovQA, NextRequest, FOIAExpress, JustFOIA FOIADirect, WebForm, or any other commercial 3rd party records portal service.
RCW 42.56.080 - Identifiable records—Facilities for copying—Availability of public records.

"...Agencies shall honor requests received in person during an agency's normal office hours, or by mail or email, for identifiable public records unless exempted by provisions of this chapter. No official format is required for making a records request; however, agencies may recommend that requestors submit requests using an agency provided form or web page."

This public records request is being made via email. This public records request will be honored and fulfilled by your agency via email as requested or relief will be sought per statute.

NATIVE ELECTRONIC FORMAT

Please provide all identified public records in their NATIVE electronic format. Unless the records exist IN PAPER FORM ONLY, DO NOT instead create new records by printing native stored electronic files, then scanning and re-printing these newly scanned prints only to reproduce them in again in electronic production.

FEES

In the event that there are fees, please inform us of the total charges in advance of fulfilling the request in strict compliance with all provisions of the Washington State Public Records Act.

EXEMPTION LOGS

Please ensure all redactions or exemptions claimed by your agency in the production of responsive records are accompanied by a complete and detailed exemption log noting the valid legal reason for each exemption at each redaction location in the record produced, as well as the specific number of pages if any that your agency redacts or withholds in their entirety. Each redaction should be noted by footnote or by a clear reference to the specific justification for that redaction, and only the minimal exempt portion of any record may be withheld.

COMMERCIAL PURPOSE DECLARATION

The Washington State Public Records Act prohibits the disclosure of "lists of individuals" for a commercial purpose (RCW 42.56.070(8)). I declare this public records request is not being made for any commercial purpose whatsoever. Also, this public records request is not being made for a "list of individuals." This declaration satisfies all requirements of RCW 42.56 regarding prohibitions on lists and commercial purposes. No additional commercial purpose declaration will be completed for this public records request.

The requested documents will be made available to the general public.

Thank you in advance for your anticipated cooperation in this matter. We look forward to receiving your response to this request within 5 business days, as the statute requires.

WAC 44-14-03001 - "Public record" defined.

For most public records, the act uses a three-part test to determine if a record is a "public record." The document must be: A "writing," containing information "relating to the conduct of government" or the performance of any governmental or proprietary function, "prepared, owned, used, or retained" by an agency.

(1) Writing. A "public record" can be any writing "regardless of physical form or characteristics." RCW 42.56.010(3). "Writing" is defined very broadly as: "... handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated." RCW 42.56.010(4). An email, text, social media posting and database are therefore also "writings."

(2) Relating to the conduct of government. To be a "public record," a document must relate to the "conduct of government or the performance of any governmental or proprietary function." RCW 42.56.010(3).1 Almost all records held by an agency relate to the conduct of government.

(3) "Prepared, owned, used, or retained." A "public record" is a record "prepared, owned, used, or retained" by an agency. RCW 42.56.010(3).

A record can be "used" by an agency even if the agency does not actually possess the record. If an agency uses a record in its decision-making process it is a "public record."⁴ For example, if an agency considered technical specifications of a public works project and returned the specifications to the contractor in another state, the specifications would be a "public record" because the agency "used" the document in its decision-making process.⁵ The agency could be required to obtain the public record, unless doing so would be impossible. An agency cannot send its only copy of a public record to a third party for the sole purpose of avoiding disclosure. Sometimes agency employees or officials may work on agency business from home computers or on other personal devices, or from nonagency accounts (such as a nonagency email account), creating and storing agency records on those devices or in those accounts. When the records are prepared, owned, used or retained within the scope of the employee's or official's employment, those records (including emails, texts and other records) were "used" by the agency and relate to the "conduct of government" so they are "public records."⁷ RCW 42.56.010(3). Agencies should instruct employees and officials that all public records, regardless of where they were created, should eventually be stored on agency computers. Agencies should ask employees and officials to keep agency-related documents with any retention requirements on home computers or personal devices in separate folders temporarily, until they are provided to the agency. An agency could also require an employee or official to routinely blind carbon copy ("bcc") work emails in a personal account back to an agency email account. If the agency receives a request for records that are located solely on employees' or officials' home computers or personal devices, or in personal accounts, the agency should direct the individual to search for and provide any responsive documents to the agency, and the agency should process the request as it would if the records were on the agency's computers or in agency-owned devices or accounts. The agency employee or official may be required by the agency to sign an affidavit describing the nature and extent of his or her search for and production of responsive public records located on a home computer or personal device, or in a nonagency account, and a description of personal records not provided with sufficient facts to show the records are not public records.

View request history, upload responsive documents, and report problems here:

https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fkent-school-district-20067%252Fkent-school-district-agency-costs-fulfilling-public-records-requests-including-litigation-2019-2022-missing-jlarc-reports-137393%252F%253Femail%253DPublicRecords%252540kent.k12.wa.us&url_auth_token=ABxCLUwDw-qmAZEsItfkQTZj7Y%3A1ozimQ%3AEq23OLKcNNTnTfjsTwxz0Wvl8jbgj050kR1roa02NsA

If prompted for a passcode, please enter:

RPHHBGLB

Filed via MuckRock.com

E-mail (Preferred): 137393-83396006@requests.muckrock.com

PLEASE NOTE OUR NEW ADDRESS

For mailed responses, please address (see note):

MuckRock News
DEPT MR 137393
263 Huntington Ave
Boston, MA 02115

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.