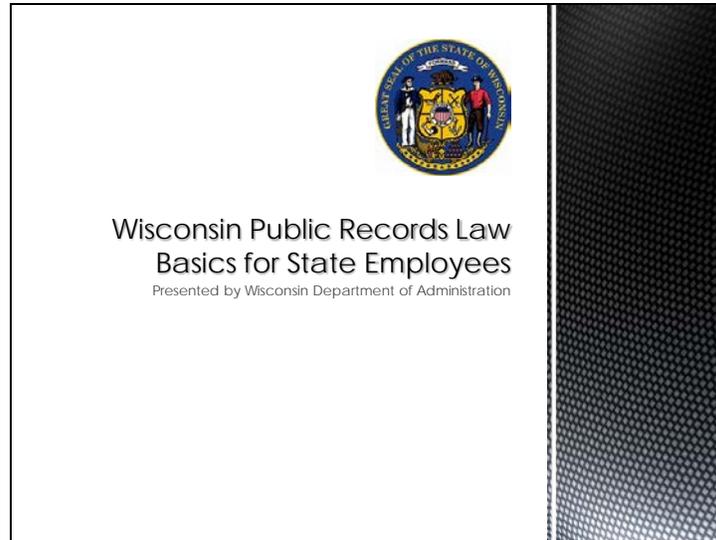


Slide 1



Welcome to Wisconsin Public Records Law Basics for State Employees. In this course, you will learn how to comply with Wisconsin's Public Records Law and your public records responsibilities. This training covers the basic information all employees need to know.

## Public Records (Sunshine) Laws

“Open records and open meetings laws ... are first and foremost a powerful tool for everyday people to keep track of what their government is up to .... The right of the people to monitor the people's business is one of the core principles of democracy.”  
*-Wisconsin Supreme Court*

Every record is presumed available to the public.

Denial is limited to exceptional cases.



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 the Wisconsin Supreme Court: “Open records and open meetings laws ... are first and foremost a powerful tool for everyday people to keep track of what their government is up to .... The right of the people to monitor the people's business is one of the core principles of democracy.” The public records law requires that every record is presumed to be available to the public. Access can be denied only in 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.



All employees 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.

Let's take a closer look at each of the five responsibilities.

## 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.



Public records responsibility 1: 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.

## 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



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

## Record Location

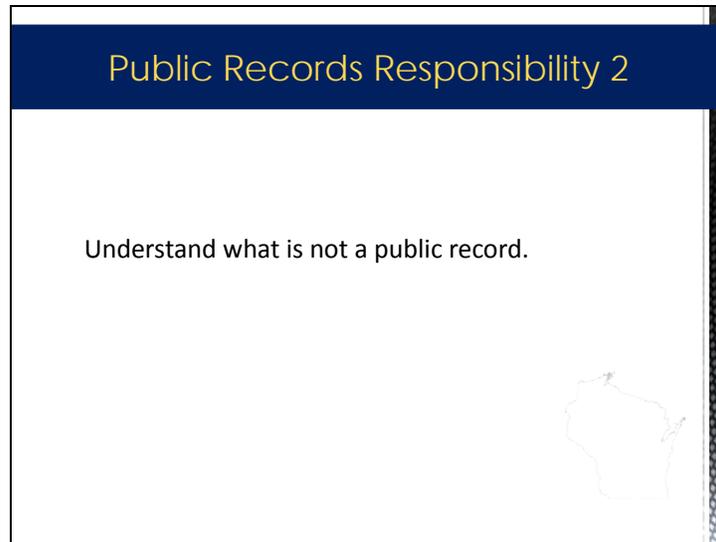
The location of the record does not matter!

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.



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.

Slide 7



Public Records Responsibility 2

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: understanding what is **not** a public record. We will now review some of the more common exceptions.

## 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.



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

## 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.



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.

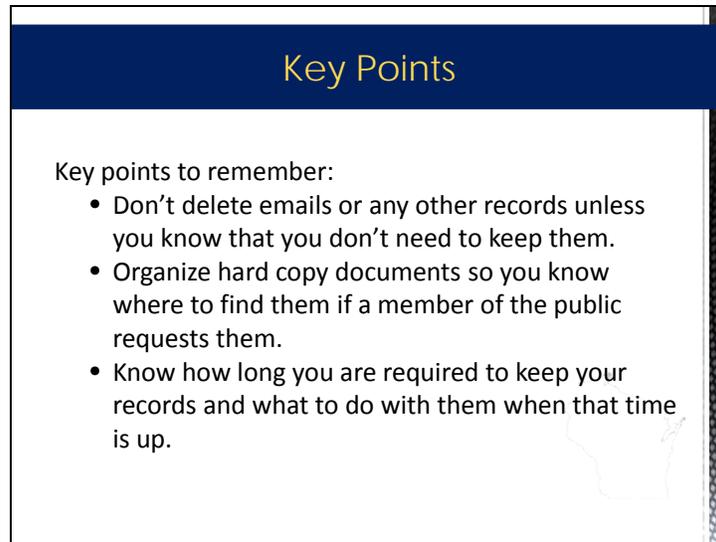
### Public Records Responsibility 3

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.



Public records responsibility 3: 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.

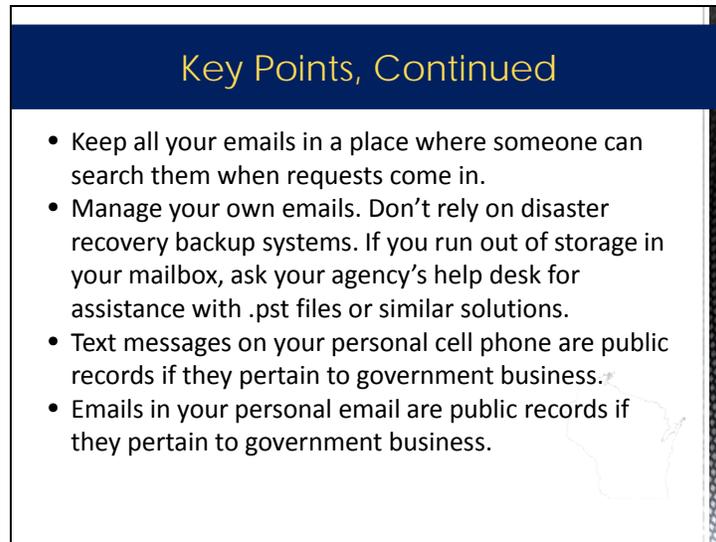


## Key Points

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.

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 that 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.

Keep all of 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 requester or the purpose of the request.

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

### 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?"



This slide contains two examples of common requests employees might receive. "All emails to or from Jane Smith in August 2016 regarding the ABC construction project" is a public records request. "Why did the state initiate the ABC construction project and when is the project expected to be complete?" is not a public records request.

## Records Custodian Responsibilities

1. Locate all records in the agency.
2. Review and remove information that is confidential under the law.
3. Provide the requester with regular status updates.
4. Respond as soon as practicable and without delay!



It is the responsibility of the records custodians to:

Locate all records in the agency that are responsive to the request.

Review and remove information that is confidential under the law and tell the requester what you are withholding.

Provide the requester with regular updates on the status of the request.

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](#)



Your fifth and final public records responsibility is knowing where to go for help. You have a variety of resources 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 publishes the Wisconsin Public Records Law Compliance Guide. You can find this guide on the DOJ Office of Open Government webpage.

**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

It's time to test what you know about the Wisconsin Public Records Law! Please select the correct answer to the following question (more than one may apply): 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

The correct answer is c. Email from your supervisor asking a question regarding a particular project you are working on together.

**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



Please select the correct answer to the following question: 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

The correct answer is b. As long as required by the applicable retention schedule

**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



Please select the correct answer to the following question: 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

The correct answer is 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



Please select the correct answer to the following question. Must a person who wishes to submit a public records request put the request in writing?  
a. Yes b. No

The correct answer is 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



True or False: Text messages and emails on your personal devices that discuss government business are public records.  
a. True b. False

The correct answer is a. True



This concludes Wisconsin Public Records Law Basics for State Employees. Thank you for your attention and your efforts to comply with this important law. You may now close this training.