

Land Use & Development

The Basis for Regulation

Open Public Meetings Act & Public Records Act



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Topics



Legal Bases of Land
Use & Development



Specific Provisions



Open Public Meetings
Act (OPMA)



Public Records Act
(PRA)



History of Zoning

- *Hauser v. Harness*, 44 Win.2d 358 (1954)
 - *The privilege of every citizen to use his property according to his own will is both a liberty and a property right.*
- *Village of Euclid v. Amber Realty Co.*, 272 U.S. 365 (1926)





Constitutional Authority & Restrictions

- Police Power:
 - WA. Const. art. XI, § 11
- Takings:
 - U.S. Const., 5th Amendment
 - WA. Const. art. I, § 16
- Freedom of Religion
 - WA. Const., art. I, § 11
 - Federal Regulations (RLUIPA)

Constitutional Authority & Restrictions

- Gift of Public Funds
 - WA. Const. art. VIII, § 7
- Equal Protection
 - U.S. Const., 14th Amendment
 - WA. Const. art. 1, § 12
- Due Process – Procedural & Substantive
 - U.S. Const., 14th Amendment
 - WA. Const. art. 1, § 3



The background of the slide is a misty, blue-toned landscape of a forested mountain range. The mountains are partially obscured by a thick layer of fog or mist, creating a sense of depth and atmosphere. The trees are dark and dense, covering the slopes of the mountains. The overall color palette is a range of blues, from deep navy to a lighter, hazy sky blue.

Regulation of Land

Specific Statutory Authority and Restrictions

Zoning



- RCW 35.22.280(7): *First class cities' authority to establish, alter, improve or regulate the use of land*
 - RCW 35A.21.160 – Code cities
 - RCW 36.70.010 – Counties
- RCW 35.63.080: *Authorizes development of codes to regulate and restrict location and use of buildings, etc.*
 - *Cannot discriminate*
 - RCW 35.63.090: Purpose of restrictions in .080
- RCW 35.63.110: *Council can divide municipality or portion into districts*
- RCW 36.70.547: Airport-related siting

Construction

- **Regulation of Construction-related professions**
 - Ch. 18.08 RCW – Regulation of architects
 - Ch. 18.27 RCW – Regulation of contractors
 - Ch. 18.43 RCW – Regulation of engineers and land surveyors
- **Building Standards**
 - Ch. 19.27 RCW – Building codes
 - Chapters 51-04, -16, -50, -51, -52, -54, -56, and -57 WAC
 - Ch. 19.27A RCW – Energy related building standards
 - Chapter 51-11 WAC



Growth Management Act

- Chapter 36.70A RCW
- Chapter 36.70B RCW
- Chapter 36.70C RCW



Environment

- State Environmental Policy (SEPA)
 - Chapter 43.21C RCW
- Scenic Vistas
 - RCW 46.80.130(2)
 - RCW 47.42.030
 - RCW 47.42.040
- Limited Access Facilities
 - Chapter 47.52 RCW



Flood Management & Shorelines

- Chapter 86.16 RCW
 - Establishes DOE as administrator
 - Provides local authority
 - Floodplain Management Ordinance
- Chapter 90.58 RCW
 - Regulates development and planning
 - WAC 173-26-080
 - WAC 173-26-090 thru 160
 - RCW 90.58.020



Subdivisions

- Chapter 58.17 RCW (Subdivisions)

- Chapter 59.20 RCW
(Manufactured Home Landlord
Act)



Damages, Taxes & Impact Fees

- Chapter 64.40 RCW (Damages)
- RCW 82.02.020 (Taxes)
 - Reasonable fees permitted In certain circumstances
- RCW 82.02.050-.090 (Impact Fees)



Appearance of Fairness

- RCW 42.36
- Quasi-judicial actions
- Prohibits prejudgment or bias

The background of the slide is a misty, blue-toned landscape of a forested mountain range. The mountains are partially obscured by low-hanging clouds or mist, creating a sense of depth and atmosphere. The trees are dark and dense, covering the slopes of the mountains. The overall color palette is a range of blues, from deep navy to a lighter, hazy sky blue.

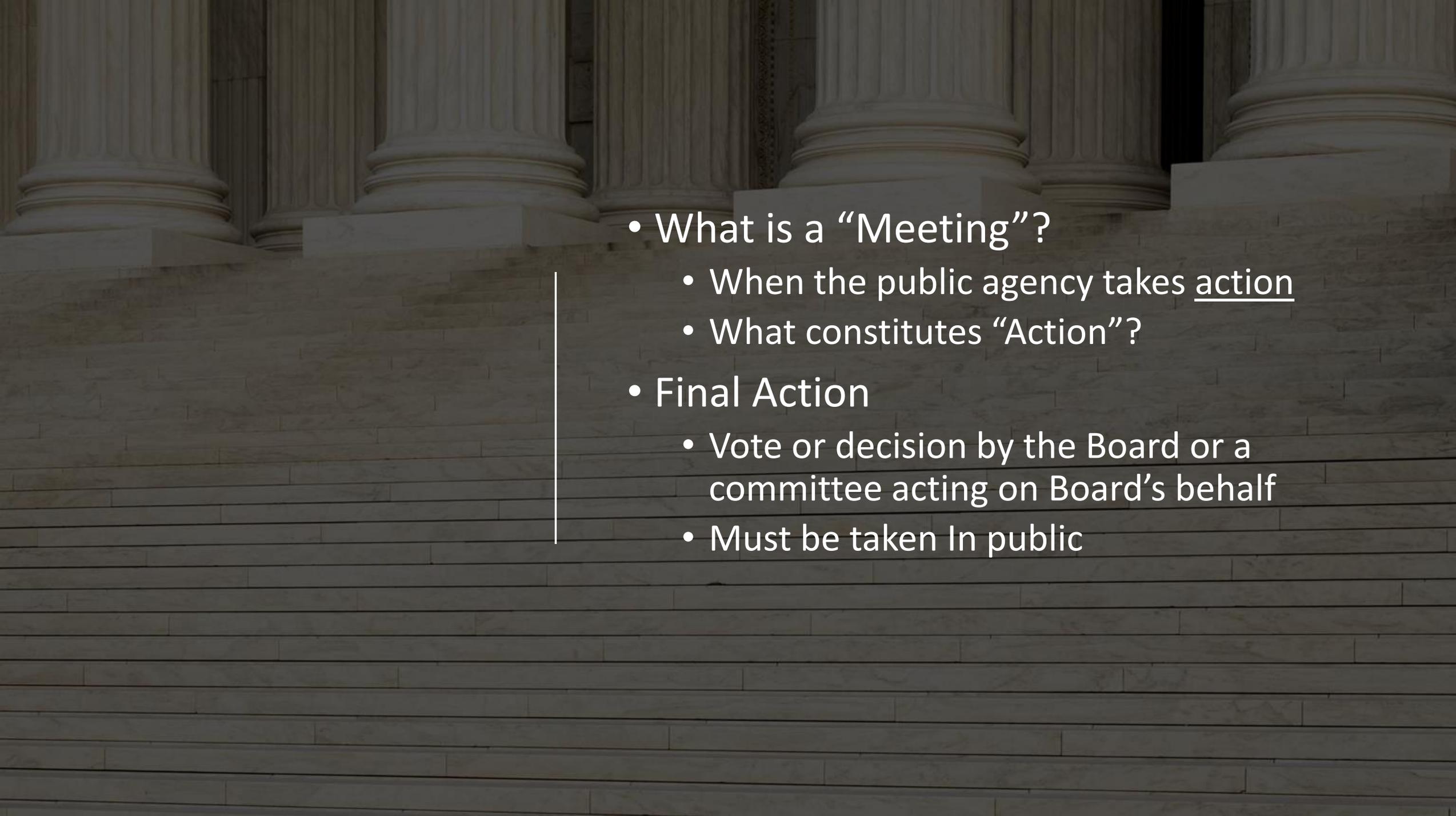
Open Government Laws

Open Public Meetings Act & Public Records Act



Open Public Meetings Act (OPMA)

- Purpose
- Overview



- What is a “Meeting”?

- When the public agency takes action
- What constitutes “Action”?

- Final Action

- Vote or decision by the Board or a committee acting on Board’s behalf
- Must be taken In public

Must be Open to the Public

- Discussion about government business must be at public meeting
 - Email, phone calls, texts
- No “public comment” is required
- Attendees not required to sign In
- Reasonable rules of conduct
- Can be recorded, unless disruptive



OPEN

Application

- Governing bodies of public agencies
- Governing bodies of subagencies
- Certain committees
 - *Citizens Alliance*
- Exceptions to posting agenda for smaller agencies

Special Meeting

- Not regularly scheduled
- 24 hours before, unless emergency
 - Each Member
 - Newspaper or other medial
 - Display at main entrance



Executive Session

- Limited Purposes
- Must announce purpose and time
- Discussions only, no decisions
- Secret ballots prohibited
- Example purposes
 - Personnel
 - Real estate negotiations, public contracts
 - Litigation, legal advice with restrictions

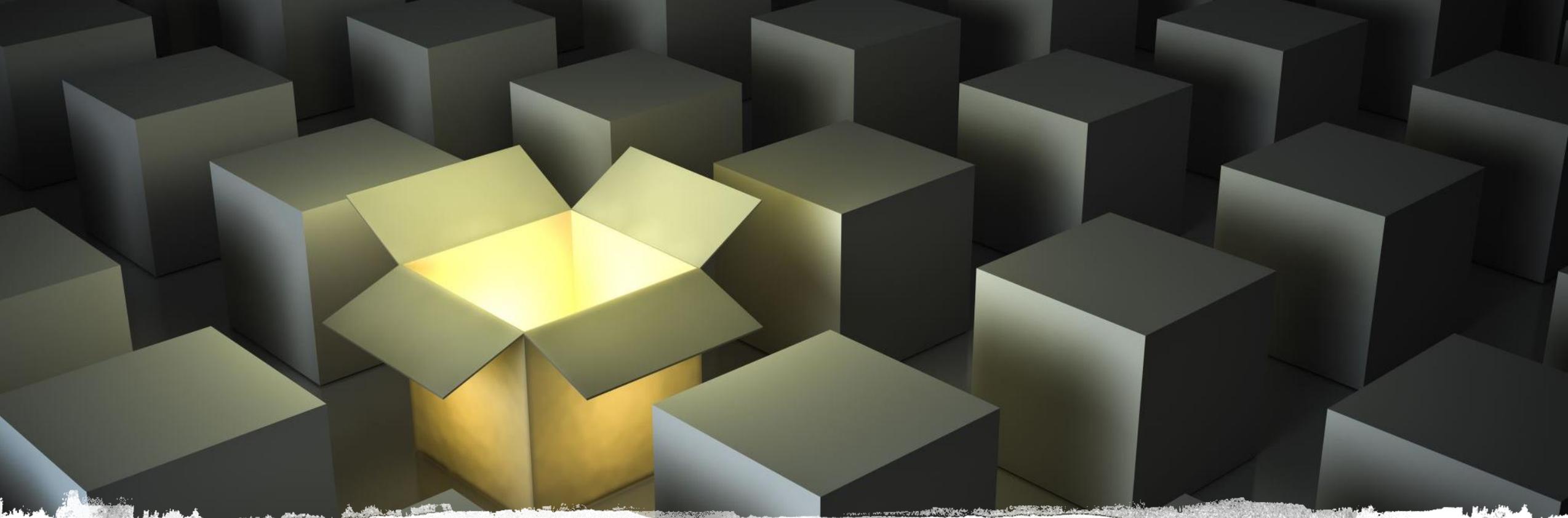




Penalties

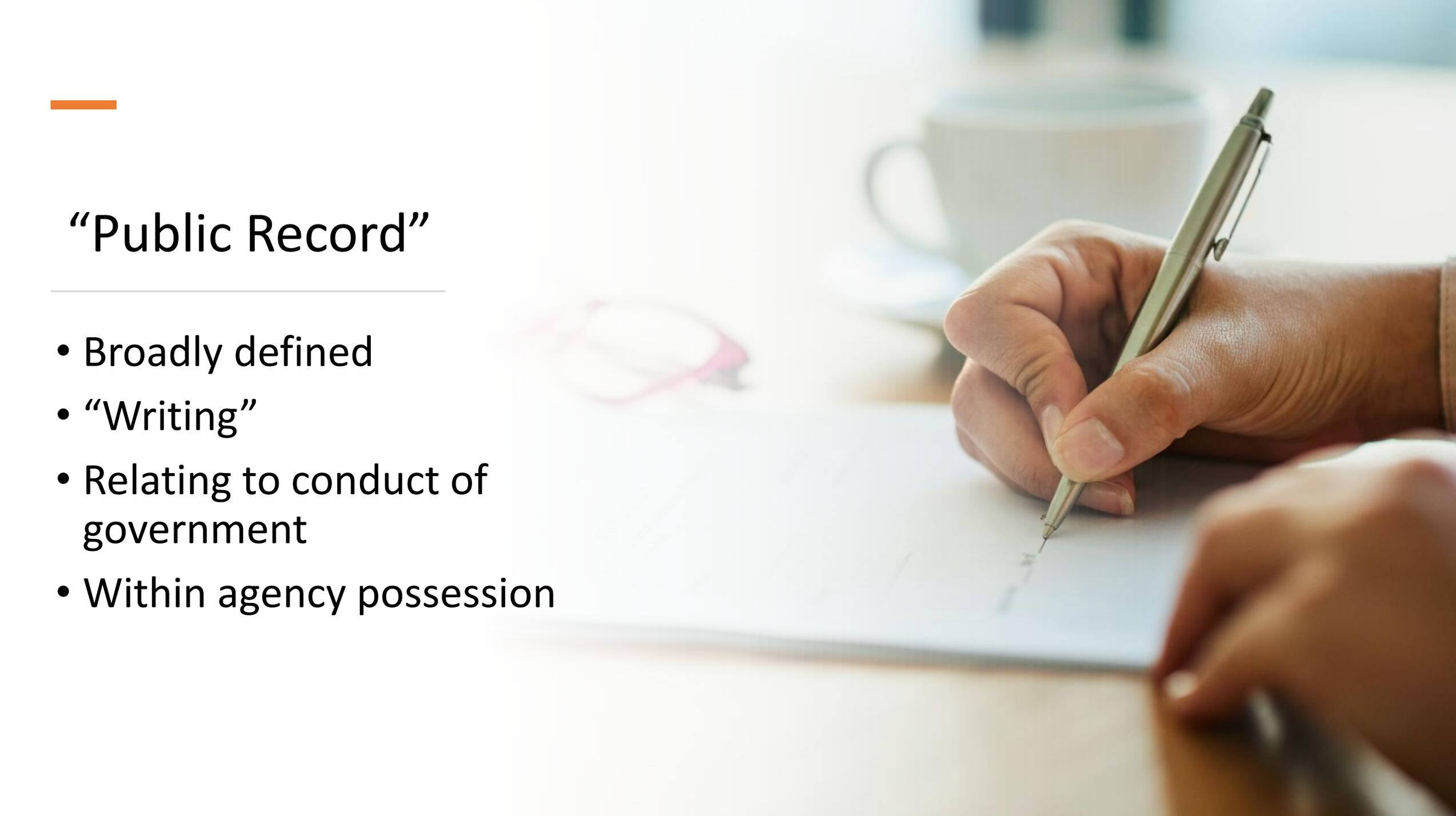
- Action is Void
- Fines
- Potential personal liability
- Potential attorney fees
- Loss of public trust





Public Records Act (PRA)

- RCW 42.56
- All “records” maintained are public
- Exemptions may apply
- Purpose & Intent

A close-up photograph of a person's hands writing in a notebook with a silver pen. The person is wearing a light-colored shirt. In the background, there is a white coffee cup on a saucer and a pair of pink-rimmed glasses on a desk. The scene is brightly lit, suggesting an office or study environment.

“Public Record”

- Broadly defined
- “Writing”
- Relating to conduct of government
- Within agency possession



Requirements

- Appoint PRO & Train
- Adopt Procedures
- Provide Access
- Timely and Adequately Respond



Responding to Requests

- Timeliness
- Types of Responses
 - Provide
 - Reasonable estimate of time
 - Clarification
 - Deny

Searching for Records

- Read request carefully
- Conduct Adequate Search
 - Consider all formats
 - Consider records of current, former staff
 - Consider all possible locations



Fulfilling Requests

- Agencies **MUST**:
 - Make non-exempt records available for inspection and copying
- Agencies **MAY**:
 - Establish, maintain, publish a fee schedule
 - Cannot charge for searches, review, or redaction
 - Notice and hearing before adoption





Exemptions

- Narrowly construed
 - Privacy
- Common exemptions
- Redaction/exemption log contents
- RCW 42.56.050,
- RCW 42.56.210,-.510,
- RCW 42.56.550

A woman with glasses is shown in profile, working on a laptop. She is wearing a striped shirt. The background is slightly blurred, showing other people and laptops, suggesting a classroom or office environment. An orange horizontal line is located at the top left of the slide.

Electronic Records

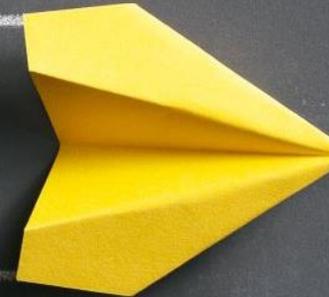
- Websites are records
- Create clear electronic records (WAC 434-662-150)
- Emails
- Avoid making records

Enforcement & Penalties

- Enforced by Courts
- Civil penalties
- Mitigating and aggravating factors
- Attorney fees
- Special provisions for Inmate requests

Retention

- Local Government Retention Schedule
- Retain as long as required, then:
 - Transfer to State Archives
 - Destroy



Risk Management Strategies

- Culture of Compliance
- Know the Law
- Protect the Records
- Review and Follow Procedures



Recent Case Law

- *Valderrama v. City of Sammamish*
- *Horvath v. Dbia Services*
- *Soule v. State of Washington*
- *Cousins v. Dep't of Corrections*

A misty mountain landscape with dense evergreen forests and a large mountain peak in the background. The scene is dimly lit, with a blueish-grey color palette. The word "Questions?" is centered in the image in a white, bold, serif font.

Questions?



The End.

Thank you!

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