

Chalkline - Legal Corner by Jay A. Goldstein, OMB General Counsel

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### Public Disclosure and Freedom of Information

A wealth of information is available to Washington citizens through the Public Disclosure Act and the Freedom of Information Act. Essentially, these statutes require municipal and state agencies to provide copies of their files to citizens upon request.

The Public Disclosure Act covers the obligations of political committees to file statements, identify contributions, disposal of surplus funds, identification of contributions and communications, personal use of contributions, use of public funds for political purposes, and specifically makes the records available for copying.

Oddly enough, file work records and American Ginseng dealers are exempt from the Public Disclosure Act.

The Public Disclosure Act also mandates it a violation for a person to sponsor with actual malice political advertising that contains a false statement of material fact. However, the Washington Supreme Court recently held in a split decision that false political advertising falls under the first amendment regarding freedom of speech. Therefore, the PDC has dropped several pending cases regarding false political advertising.

Washington Courts often look to Federal Court interpretations of similar provisions of the Freedom of Information Act (FOIA), 5 U.S.C. §§ 552 (1966) for guidance in interpreting Washington's Public Disclosure Act. Exemptions in FOIA include personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The same is true for payroll records, social security numbers, residential addresses and telephone numbers.

You will need to show a legitimate public interest that is reasonable. Some balancing of the public interest in disclosure against the public interest in efficient administration of government is appropriate. The purpose of the PDA is to keep the public informed so it can control and monitor the government's functioning. FOIA's central purpose is to open agency action to the light of public scrutiny. Because Washington's PDA provides for an award of attorney's fees to anyone who sues state government (or subdivision of, as in municipal government) for violation of the PDA, attorneys have worked aggressively to insure that the Act has sharp teeth. My experience in working with state and local governments confirms that information is quite easy to access, so long as you have a legitimate public purpose. Generally, you will need to fill out a simple form and the information will be forthcoming. I have frequently accessed information while I wait for a nominal copying charge.