

MEMORANDUM

To: Kevin Reed, Vice President and General Counsel

From: Lisa Thornton, Public Records Officer

Date: October 12, 2021

Re: Annual Report - Office of Public Records, FY 2021

Created in 2010, the Office of Public Records responds to requests from members of the public for university records. The office believes the primary purpose of the Oregon Public Records Law is to provide transparency in the workings of public entities. To that end, this annual report will look at the details of records production, challenges faced by the office, and future goals of the office.

Public Record Production:

In Fiscal Year 2021, the Office of Public Records processed 419 public records requests, a slight decrease from the 447 requests processed in Fiscal Year (FY) 2020. 416 of the requests received were closed by the end of the fiscal year. While the number of requests received was lower than FY20, it was still above the office's historic rolling three-year average (*figure2*). Of the closed requests, the average completion time was just under five business days, an improvement over FY20.

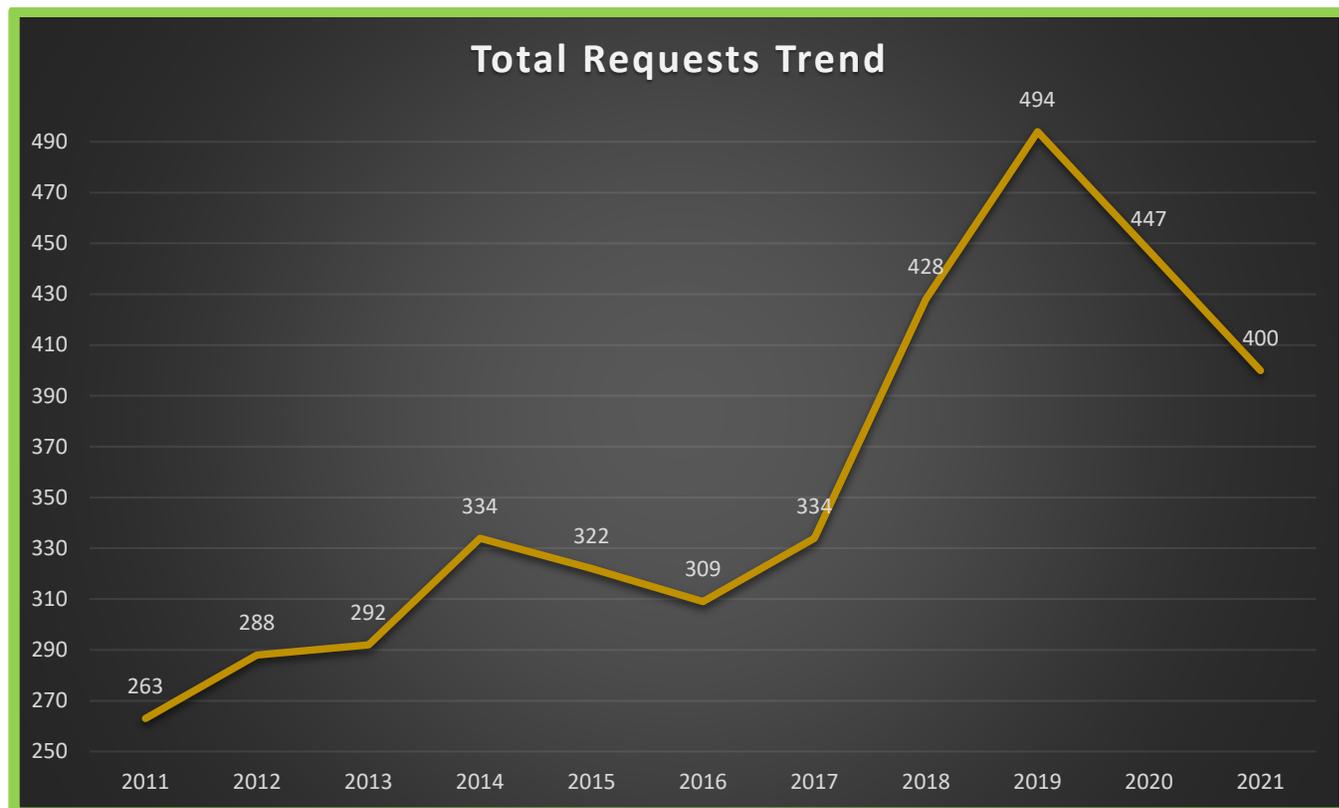


Figure 1

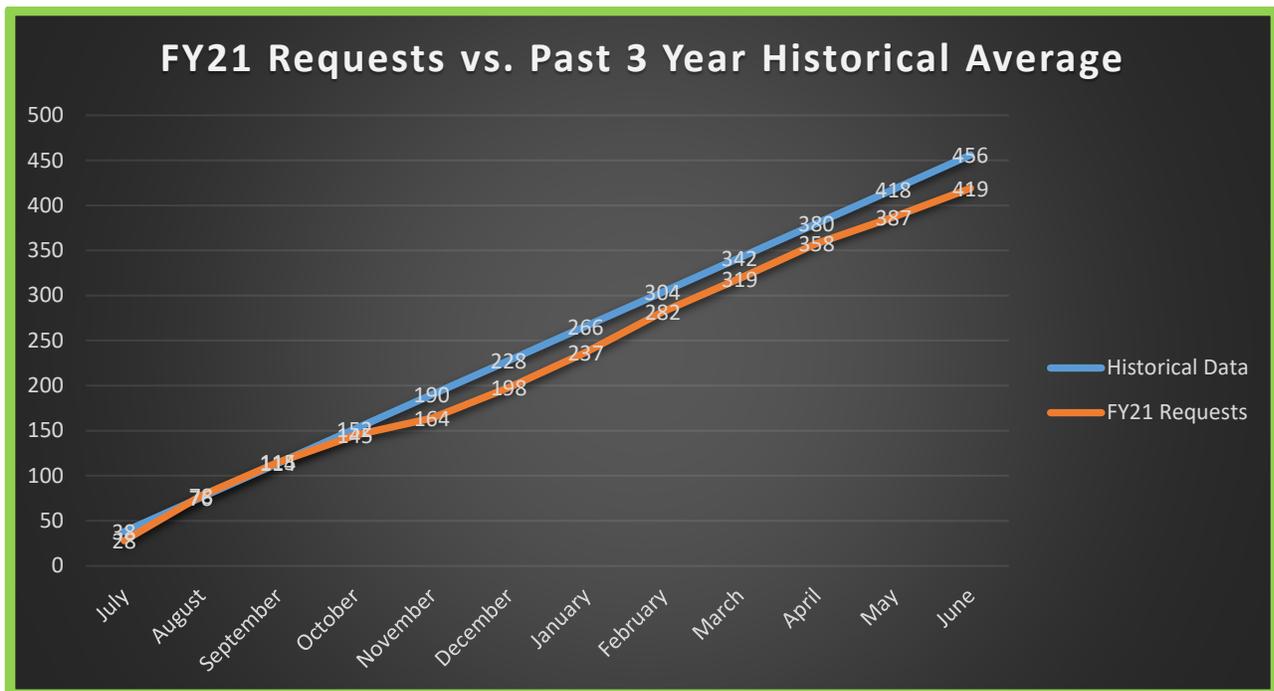


Figure 2

As in years past, the office uses a four-category rating system¹ to measure and track the complexity of the requests, with a rating of (1) being the simplest request and (4) the most complex. This rating system evaluates the state of the documents, the number of locations from which they must be gathered, and the complexity of the required redactions. Sixty-five percent of FY21 requests fall into the first and second categories, in which the office already possessed the records, or records could be gathered from one or two campus locations and with minimal required redactions. Response times in FY21 remain consistent with these complexity ratings.

As in the past, the media make up the largest category of requestors, responsible for 45 percent of requests received by the office (*figure 3*). The office breaks the media into two sub-categories, the news media and student media. In years past the number of requests by the news media and student media have been nearly equal. In FY21, however, news media made 38 percent of requests, while the student media made only eight percent.

Over a third of the total requests received came from commercial requestors. Commercial requestors largely represented groups seeking to do business with the University through the RFP/RFQ process, or businesses seeking student directory information.

Requestors in the education category make up five percent of the total requests received by the office. The office received one request from a requestor in the labor category, and this year received no requests from requestors identifying themselves as lawyers or law firms.

¹ Category 1: Office has responsive records prepared to deliver

Category 2: Office can easily and quickly collect records from one or two campus locations; responsive records require minimal redaction

Category 3: Responsive records require redaction and/or the Office of the General Counsel's advice

Category 4: Office collects records from multiple sources; responsive records are difficult to locate or require forensic reproduction; documents require complex processing and/or redaction; advice required from the Office of the General Counsel

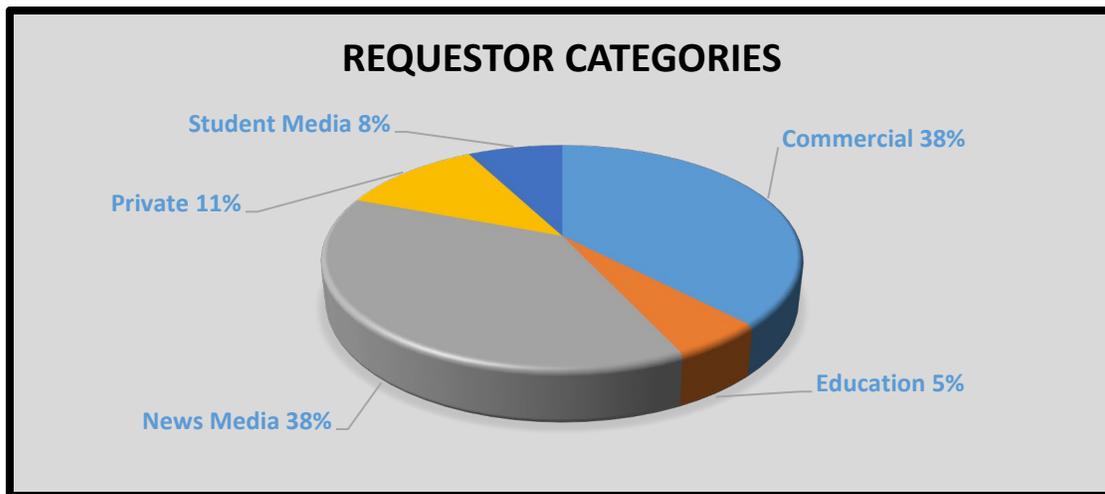


Figure 3

Fees

The office continues its practice of waiving costs to respond to simple requests, defined as “requests made by non-commercial entities that clearly require less than one hour of university staff time to fulfill.” Seventy percent of the requests received in FY21 were fulfilled at no cost to the requestor under this practice (figure four).

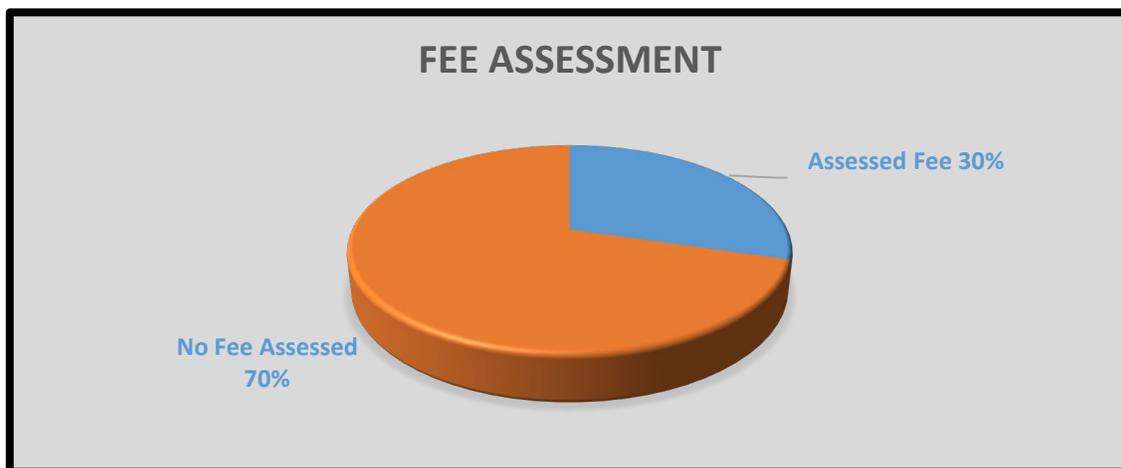


Figure 4

As in years past, the media was the largest category of requestors, making 45 percent of requests received by the office. The news media made 157 requests, and student media were responsible for 32. Despite the large volume of requests, only 37 news media requests resulted in a charge to the requestor. The average payment received was \$149.81. Of the requests that did not result in a charge to the requestor, 116 requests were fulfilled under the office’s simple request fee waiver; the remaining four requests were abandoned by the requestor. Of the 32 requests by student media, 10 resulted in an estimated cost to respond; the remaining 22 requests by student media were completed at no cost to the requestor.

Just over a third of the total requests received came from commercial requestors. Commercial requestors largely represented groups seeking to do business with the University through the RFP/RFQ process, or businesses seeking student directory information. This category of requestor was the most likely to be charged for producing records in response to public records requests, with 58 of commercial requests resulting in a cost to the requestor. The average cost of responding to commercial requests was \$79.12. Requests not resulting in a charge were either

publicly available, for records already in the possession of the office, or took so little time to fulfill that charging was logistically unsound.

Private requestors, seeking records for personal use, made up 11 percent of the requests. This category of requestor was the most likely to qualify for a simple request fee waiver, with 36 requests fulfilled at no cost to the requestor. Of the twelve requests that resulted in a charge, one paid the \$32.53 estimate.

Compliance

Of the 419 requests received in FY21, the office processed thirteen requests beyond the default statutory completion date of fifteen business days to complete. All of the requests that required more than fifteen business days to complete were submitted by the media, 10 from the news media and three from the student Media. A fee was charged for seven of these requests, six of which were from the news media, with an average payment of \$156.50. In all cases, a reasonable estimated date was provided to the requester, and thus the office finished the year with 100 percent compliance with the deadlines imposed by the Oregon Public Records Law.

The office notes that the bulk of the requests that required more than 15 business days to respond to fell within months that were marked by an inordinate number of received requests. Five of the requests that required more than 15 business days to complete were made between mid-July through late August. The office received 78 requests in the two months that received the highest volume of requests overall. Of the other two requests that required more than 15 business days to respond to, one fell during the winter holidays, and the other required searching through 15 years of records and required a high level of coordination between University departments.

Timeliness

The metric tracked most closely is the time between receiving a request (or a clarification of that request), or the time from when requested payment is made, until the day the requested records are transmitted (*figure 6*). During FY21, the longest time from payment received to records produced was 32 days. This request covered extremely sensitive student records from 2021-2020, and required an great amount of highly detailed review to ensure student privacy was protected.

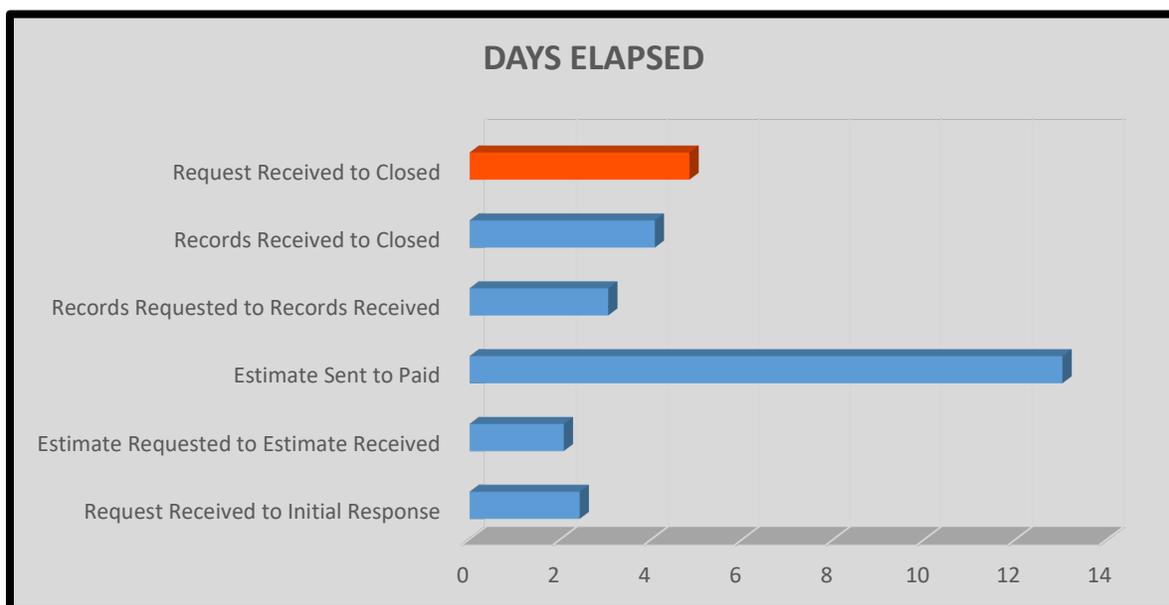


Figure 5

Transparency

The office believes the primary purpose of the Oregon Public Records Law is to provide transparency in the workings of public entities. The office strives to balance this transparency with the need to protect certain types of information submitted to public bodies, including student records, private information, personnel records, faculty research, and trade secrets.

In FY21, 170 requests had records provided to requestors without redactions, 74 were provided with some redactions, 43 requests were denied in full, 37 had no responsive records, 66 were abandoned after receiving a cost estimate to respond, and the remaining 28 were closed for other reasons, mostly due to being withdrawn by the requester or abandoned for non-cost related reasons (*figure 6*).

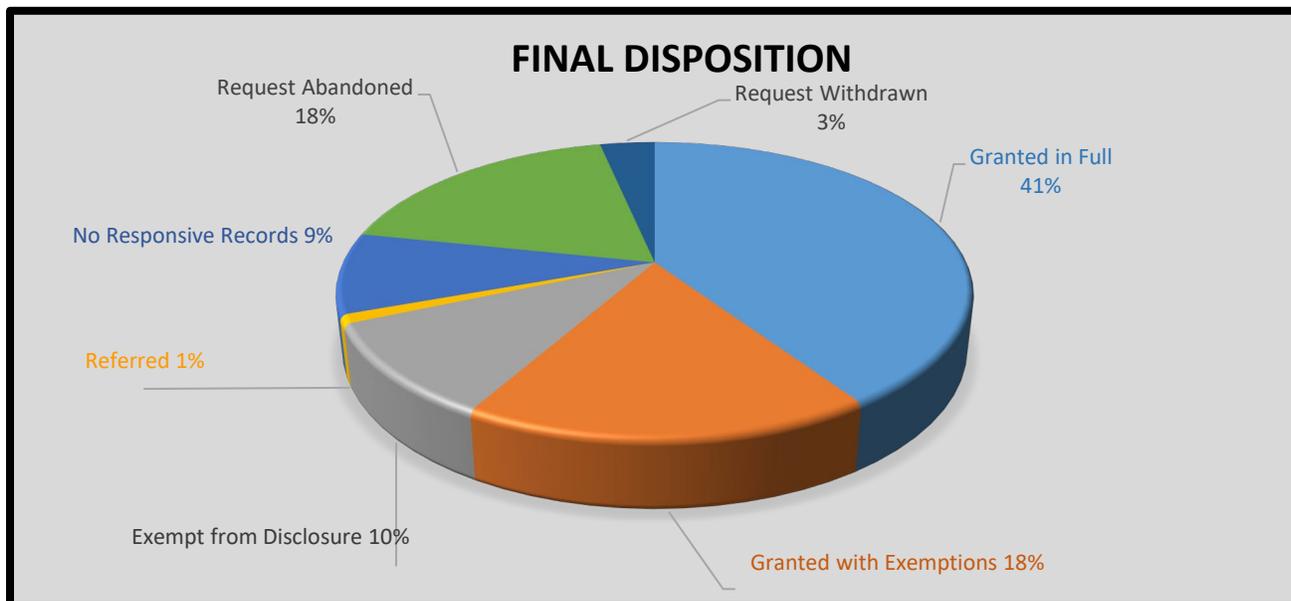


Figure 6

Of the 74 requests that were partially redacted, 17 were redacted in part under the federal law exemption in order to comply with the Family Education Rights and Privacy Act (FERPA), 25 were redacted for personal privacy, and 27 were redacted for trade secrets.

Almost all of the 43 requests that were fully exempt from disclosure were for documents relating to incomplete RFP/RFQ processes, which are exempt under Oregon law and University policy.

The office also referred four requestors to other campus departments, 14 were withdrawn by the requestor, 37 had no responsive records and 77 were abandoned. Under Oregon Public Records Law, a request is considered abandoned if the requestor does not respond to a request for clarification or payment for sixty days.

Responding Departments

Consistent with past trends, the Athletics Department received the plurality of public records requests, with 27 percent of the total. Three other departments on campus also received a high concentration of requests: Purchasing and Contracting Services received 13 percent, the Office of the Registrar and Design and Construction received seven and six percent of the total public records requests, respectively.

The remaining requests were distributed relatively evenly across the University, with concentrations in the Office of the General Counsel, Office of the President, Finance and Administration, and Human Resources (*figure 7*).

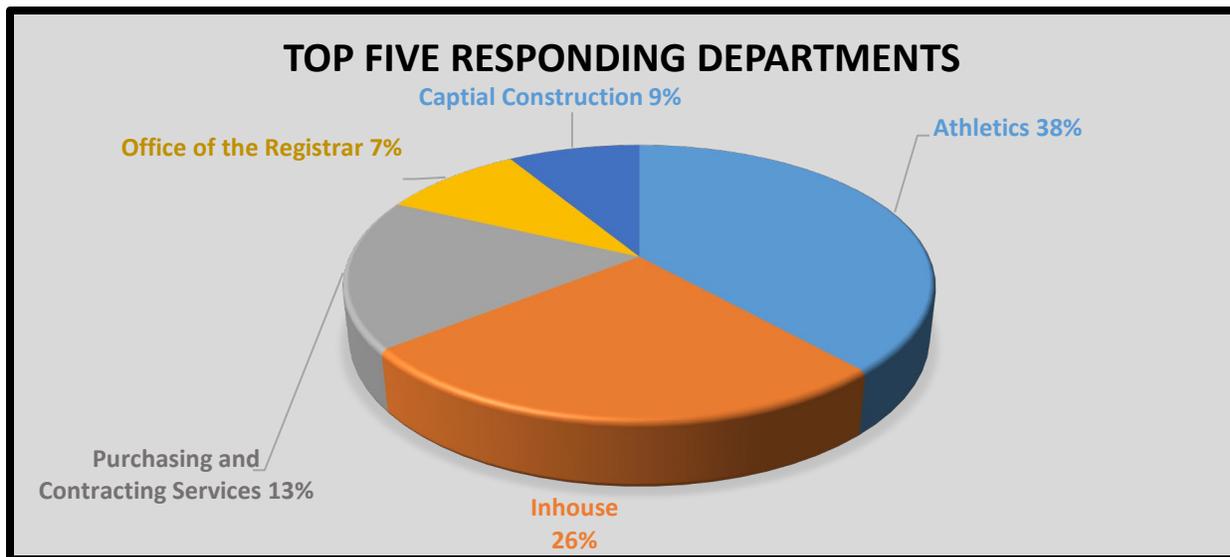


Figure 7

Retrospective:

This last year has marked ten years since the creation of the Office of Public Records. In that time, the number of public records requests received has increased nearly sixty percent, while the average response time has decreased by two business days. The number of fee waivers granted has remained relatively stable over the decade, with between 70 and 80 percent of requests being fulfilled at no cost to the requestor each fiscal year. While the staffing levels have fluctuated briefly over the decade, permanent staffing levels have remained consistent at two FTE.

The Office has utilized request tracking software since August of 2011, with requests being backfilled to the formation of the office. Backfilled requests do not contain all of the same requestor data that requests entered after August 1, 2011, however they do allow the office to get an overall snapshot of the trends in requests over the last decade.

Since its creation, the office has responded to 3,930 public records requests from 1,616 unique requestors. The data available show that the majority of all requests received by the office have been made by the media, with 1181 coming from news media, and 435 from student media. Commercial requestors have made 1045 requests, and private requestors have made 878 requests.

The types of requests received over the decade have remained largely similar, with a primary focus on requests made to the Athletics Department (1001 requests), Legal Affairs (278 requests) relating to Purchasing and Contracting (286 requests), or Capital Construction projects (201 requests). The Office has also provided records directly for 594 requests, either by pointing requestors to publicly available records or providing records from previously fulfilled requests.

The office began reporting on the exemptions applied in its annual reports in 2017. While data does exist in the software prior to this date, running a report on the final disposition and exemptions applied produces reports containing sufficient errors to render the historic data insufficiently accurate. This is possibly due to an update in the statutes in 2018, but that is unclear from the reporting. As such, the office cannot report on how it applied exemptions prior to 2017, but believes its application of exemptions has remained consistent over the decade.

Since 2017, the office has granted 718 requests in full, 436 have had some redactions, and 230 have been denied in full. Of the requests that had exemptions applied, almost all related to privacy, with 212 being redacted in part or full for Personal Privacy, 139 for compliance with the

Family Educational Rights and Privacy Act (FERPA), and 153 for Trade Secrets. A small portion of requests that were denied in full were for records related to RFQ/RFP processes that were not yet complete.

Additional Progress:

Despite being completely remote this fiscal year, the office was able to maintain 100% compliance with Oregon Public Records Law. The office has met or exceeded the Law's expectation that agencies provide records in under 15 business days each year since the implementation of timelines in 2018. However, doing so during a global pandemic, while being largely remote, is an indication of how seriously the office, and the University as a whole, takes the mission of transparency. Success in maintaining compliance with the law would not be possible without the assistance of our many campus partners, and the office is appreciative of the collective effort.

Challenges:

As with last year, this report would be incomplete without an acknowledgment of the effects of COVID19 on the University as a whole, and the office specifically. The University has remained in largely remote status since March 16, 2020. Campus partners have done an excellent job of maintaining access to as many services as possible during this time, and response to public records requests was no different.

While the office succeeded in its mission of responding to public records requests in a timely and accurate manner, external challenges meant that the goals identified in last years annual report were not achieved. The office looks forward to achieving those endeavors, outlined in the section below, in the year to come.

Future Endeavors:

The office looks forward to hosting a fourth annual Public Records Roundtable in the fall of 2021. The office also intends to focus its efforts on producing online training content for faculty and staff, as well as update the Public Records webpage. Staff will also continue with their professional development by attending the Council on Governmental Ethics Laws.