



MEMORANDUM

To: Vice President and General Counsel Kevin Reed
From: Public Records Officer Lisa Thornton
Date: July 19, 2017

Re: **Annual Report - Office of Public Records, FY 2017**

Public Record Production

The office has processed 334 public record requests, up from the 309 processed in Fiscal Year 2016. 293 of the requests received were closed by the end of the fiscal year. Of the closed requests, the average response time for requests was 4.76 days, down slightly from FY15.

As in years past, the office uses a four-category rating system¹ to measure and track request complexity, with a rating of “one” being the simplest request and “four” 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. The majority of requests fell into the first and second categories, as documents that the office already possessed or could be gathered from one or two campus locations, and required minimal redactions. As in past years, response times remain consistent with complexity ratings.

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



17 percent of all requests received by the office required more than 30 days to fulfill, excluding the time the office waited for clarification or payment from the requestor. Of those, 52 percent of were category 3 requests or higher. 36 percent were made by Commercial organizations, 39 percent by Media, 22 percent by private citizens, and 3 percent by education related entities. A fee was charged for 22 percent of these requests, with an average payment of \$218.10.

The statistics reported here do not calculate in the response time any days elapsing between a request for the payment of estimated fees and when the payment is made, since that time period is outside the control of the university. 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. This fiscal year, the longest time from payment received to records production was 103 days. This exceptionally long response time was, in large part, due to the legal advice needed in preparing a response to the request, as the records were tied to personnel issues and presented complex questions regarding the intersection of personnel records and public records.

The office believes the primary purpose of 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 some types of information submitted to public bodies, including student records, private information, personnel records, and trade secrets. In FY17, 131 requests had records provided to requestors without redactions, 101 were provided with some redactions, 21 requests were denied in full, and 40 were closed for other reasons, most due to being withdrawn by the requester.

Of the 101 requests that were partially redacted, 22 were redacted in part to comply with FERPA, 40 were redacted for personal privacy, and 50 were redacted for trade secrets.



Of the 21 requests denied in full, six were for personnel records, which are not public records per University of Oregon policy. Records for six requests were exempt in their entirety under the Criminal Investigatory Materials exemption, covering law enforcement records that are under investigation or pending court action. Two requests were for student email records, which are specifically exempt from disclosure under the Student Email Addresses exemption, two were exempt from disclosure entirely under the Personal Privacy exemption, and two were exempt under the Family Education Rights and Privacy Act (FERPA). The remaining requests were denied in full because the University did not possess responsive records.

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. In FY17 this practice resulted in 88 percent of requests being fulfilled at no cost to the requestor.

The requestor category that was most likely to be charged for requests was the Commercial category, with 19 requests resulting in a charge for the response. The average cost of responding to these requests was \$128.87.

The News and Student Media were the next most likely to be charged for requests, with nine requests being charged for the response. The average cost of responding to these requests was \$465.63. One request by the Student Media resulted in an estimated cost of \$44.78, which was paid by the requestor. Another was withdrawn prior to payment. The remaining 58 requests made by the Student Media did not result costs to the requestors.

Six Private requestor paid an average of \$67.45 for their requests; the remaining 38 requests from Private requestors were fulfilled at no cost to the requestor.



Additional Progress

The office continues to seek out best practices, and to further our relationship with campus and community partners. To this end members of the office attended the Council on Governmental Ethics Laws to meet with FOIA colleagues across the US and Canada to discuss current issues in the field and best practices.

The office, in coordination with the Office of the General Counsel, successfully created a position for, and hired, a University Records Manager, who joined the office in February 2017. This role reports to both the Office of Public Records and the Office of the General Counsel, and is primarily responsible for ensuring compliance with all areas of records management and related policies and procedures for the University. For this fiscal year the Records Manager position is focused on analyzing current records retention policies and practices and, with coordination from departments around campus, drafting a new policy to be presented to the Policy Advisory Committee in FY18. The current retention schedule was last updated in 1997, and was adopted wholesale from the former OAR that applied to the Oregon University System. Updating and re-drafting the records retention policy will allow the University to join Oregon State University in having a policy that applies to modern technology and business needs.

Challenges

As in years past, and like many other agencies, the office struggles with responding to complex public records requests in as timely a manner as it would like. Part of this is due to the decentralized nature of the university, which continues to hinder the record-gathering process. The office has little control over this portion of the process, and yet a slow response from one or more record-possessing office can seriously delay the production of records to a requestor. This fiscal year the office waited an average of five days before receiving an estimate from responding departments,



As with last year, Athletics and the Public Records office received the majority of public records requests, with 30 percent and 20 percent of the total respectively. Requests responded to by the Office of Public Records were generally for records responsive to previous public records requests or for information that was already publically available. Two other departments on campus received a high concentration of requests, Capital Construction received eight percent of the requests, and Purchasing and Contracting received seven percent. The remaining requests were fairly evenly distributed around the University, with concentrations in the University of Oregon Police Department, the Office of the Registrar, and the Office of the General Counsel.

Of the 52 requests that took more than 30 days to fulfill, three had a complexity rating of 4, 27 of them had a complexity rating of 3, and 16 had a complexity rating of 2. This illustrates that the majority of requests that take the longest to fulfill are complex, require the office to gather records from multiple offices, or that require extensive review/redaction. In the instances where the requests were less complex the office found that response times were slowed either because the office was waiting to hear from responding offices, assistance was required from third parties, or the requests came in close to more complex requests that the office needed to respond to first.

Future Endeavors

In the coming fiscal year the office will focus on getting the new Records Management program up and running, with improved training around retention requirements and records management best practices. This will help ensure the proper retention and disposal of records, which was indicated as the primary difficulty public agencies faced in responding to public records requests in a timely fashion in the Secretary of State audit performed in 2015.



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The office will also work with campus partners to develop improved mechanisms to receive estimate and documents responsive to public records requests more quickly. Currently the office waits an average of five days for an estimate and six days for responsive records from responding departments, which will impact the office's ability to comply with the new timelines specified in SB 481 which becomes effective January 1, 2018.