

MEMORANDUM

To: Kevin Reed, Vice President and General Counsel

From: Lisa Thornton, Public Records Officer

Date: November 29, 2022

Re: Annual Report - Office of Public Records, FY 2022

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 Records Production

In Fiscal Year 2022, the Office of Public Records processed 404 public records requests. 389 of the requests received were closed by the end of the fiscal year. The office had 14 requests that were not closed at the end of the fiscal year, but were all closed within 15 business days of receipt. One request remains open. (As to that request, the office produced weekly rolling releases due to its extraordinary scope and number of responsive records, and is currently waiting for further instruction from the requestor.)

Of the closed requests, the average completion time was 5.67 business days.

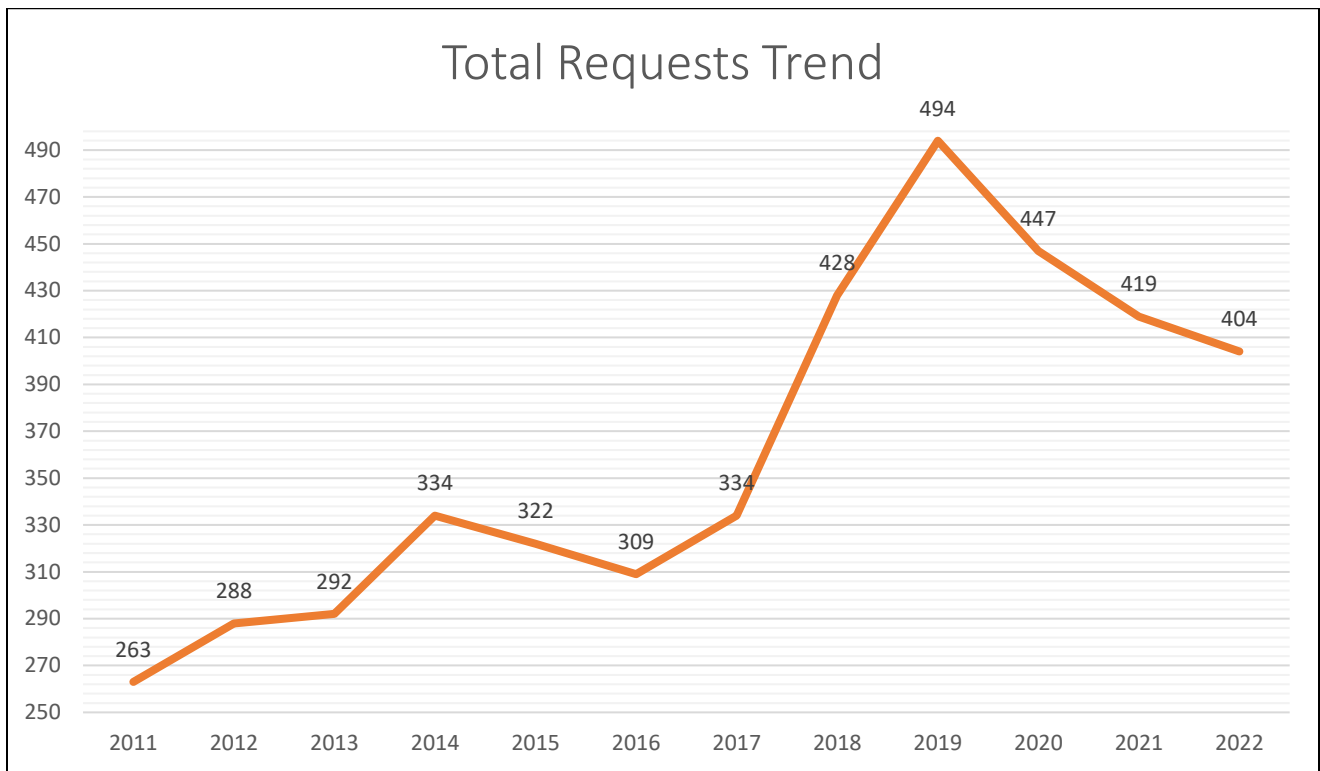


Figure 1

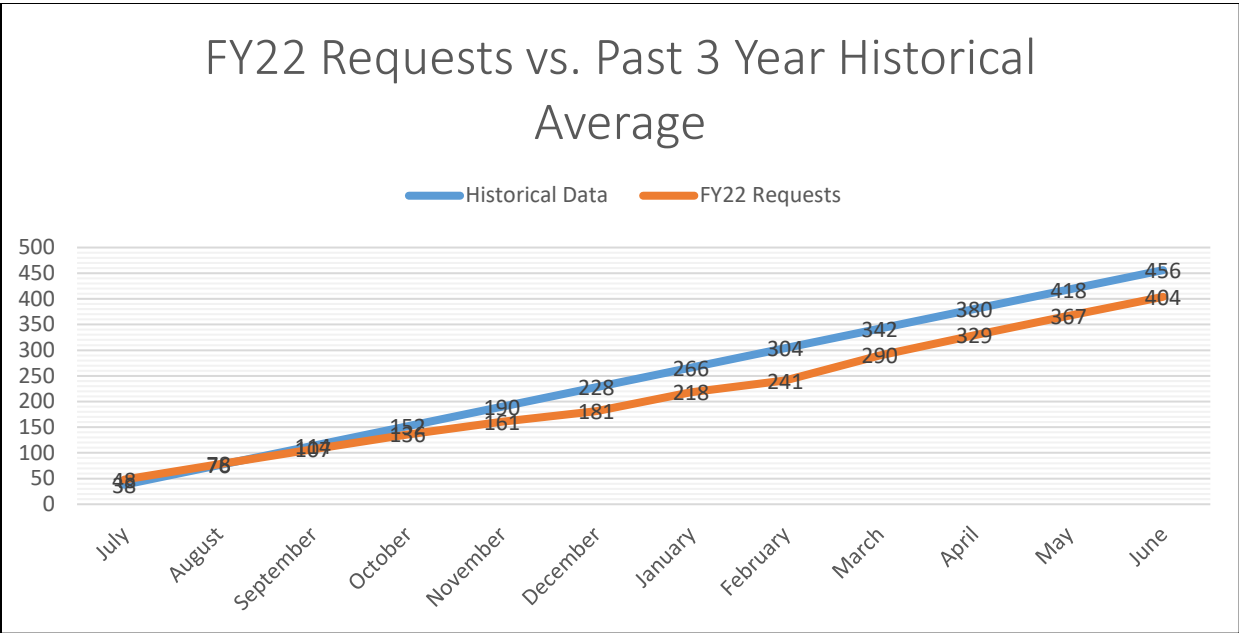


Figure 2

Case Complexity

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 (figure 3). 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. Seventy-seven percent of FY22 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 FY22 remain consistent with these complexity ratings.

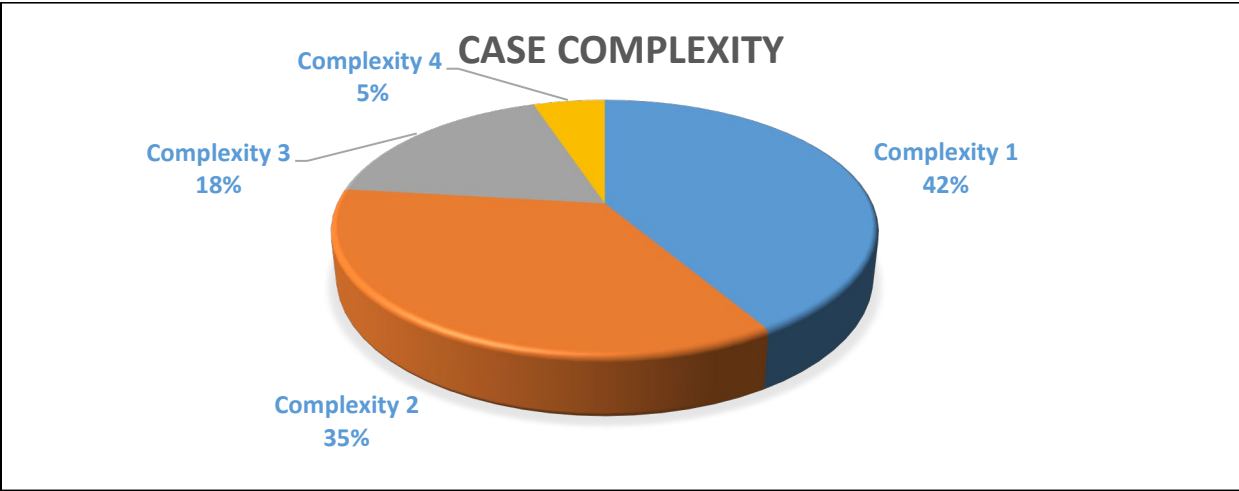


Figure 3

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.

Requestor Categories

This fiscal year, Commercial requestors placed the highest number of requests, with 164 requests received, comprising 41% of all requests received (figure 4). Commercial requestors largely represented groups seeking to do business with the University through the RFP/RFQ process, or businesses seeking student directory information.

The Media made 138 requests, 34% of the total requests. 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 FY22, as with FY21, however, student media made significantly fewer requests than the news media. The news media made 121 requests, while the student media made 17.

The office notes that nearly two-thirds of requests made by the media were made for Athletics-related documents. Of those, the majority of requests were for coaching contracts. The office posts these documents on its website, in recognition of their interest to the public, and their commonly requested nature.

Requestors in the private category made 60 requests, comprising 15% of total requests. A quarter of these requests sought Athletics coaching contracts, as well as information related to Name, Image, and Likeness developments within Athletics. It is probable that many of these requests were from media members who did not provide their affiliation.

Requestors in the education category made 34 requests, requestors in the legal category made seven requests, and the office received one request from a labor union.

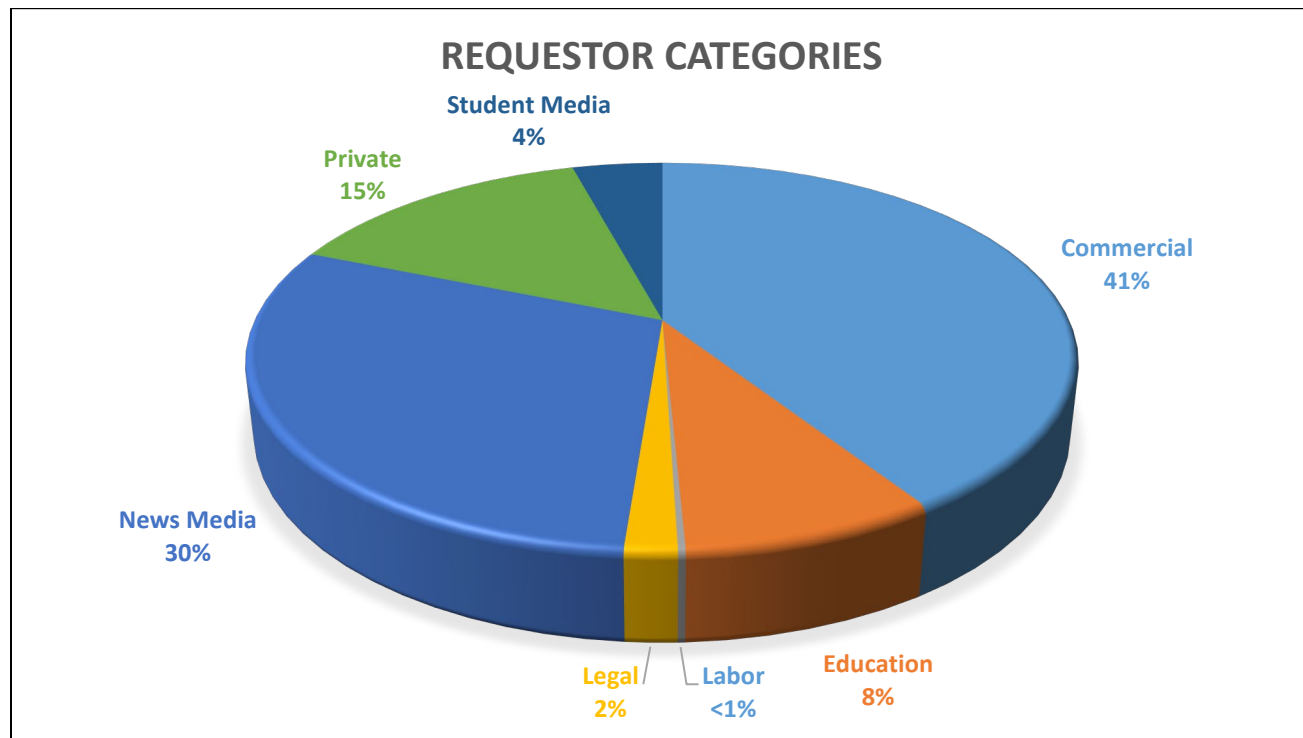


Figure 4

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.” Nearly 74 percent of the requests received in FY22 were fulfilled at no cost to the requestor under this practice (figure 5).

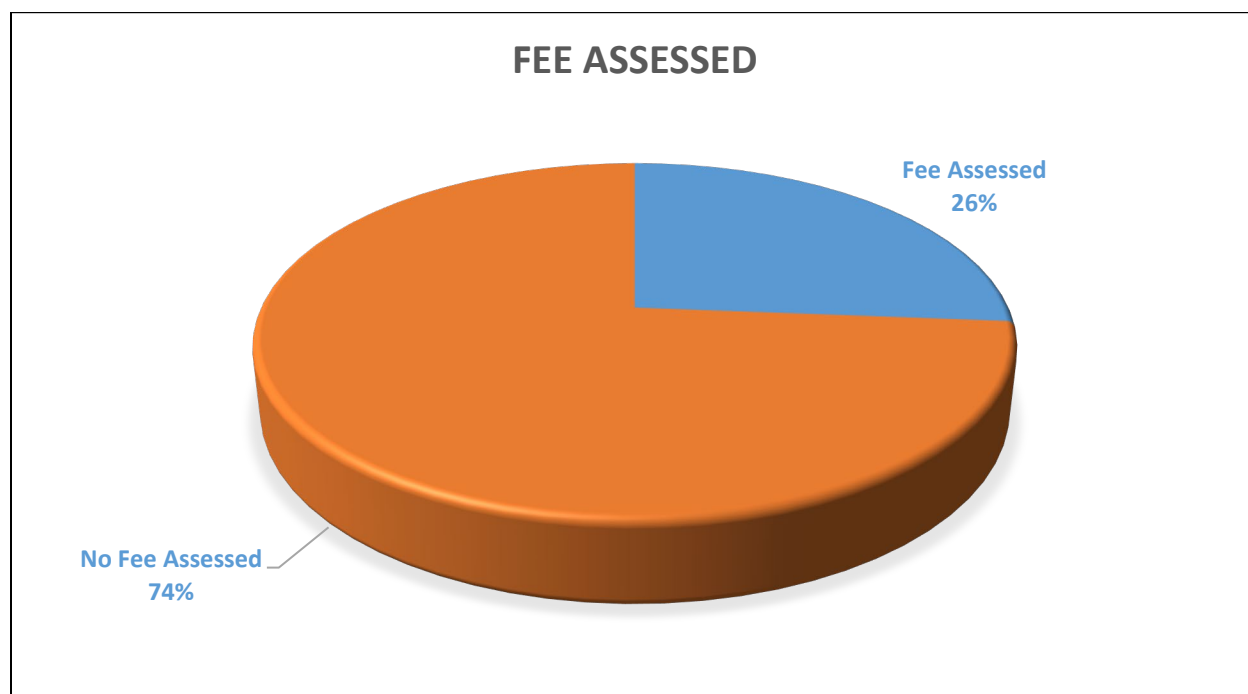


Figure 5

As expected, the requestor category that was most likely to be charged for requests was the commercial category, with 55 of the 164 requests made resulting in a charge for the response; 27 requestors ultimately paid. The average cost of a request made by a commercial requestor was \$138.32. Of the requests that did not result in a fee estimate, 44 requests were made for either records that were exempt from disclosure in their entirety (largely because they were submitted for an RFP/RFQ process that was not yet complete), or for records that did not exist. Eight requests were either abandoned or withdrawn by the requestors. The remaining 59 requests were fulfilled at no cost to the requestor because the requests were for records that were publicly available, for records already in the possession of the office, or took so little time to fulfill that charging was logistically unsound.

The media were the next largest category of requestor, and as such the next most likely to be charged, with 25 of the 121 requests made by news media, and one of the 17 by the student media, resulting in a cost estimate. The average payment received was \$303.46. The single student media request that resulted in a cost estimate was pursued and the requester paid for these records. The remaining 16 requests by Student Media were completed at no cost to the requestor or records were exempt from disclosure. Eighty-five requests made by the media were fulfilled under the office’s simple request fee waiver. There were no records responsive to 20 requests, and the remaining 28 requests were either withdrawn by the requestor or abandoned after the office sought clarification of the request. Three requests were fully exempt from disclosure and the remaining two requests were referred to another department.

Private requestors, seeking records for personal use, received estimates to respond to 15 of their requests, seven of which were ultimately pursued. The average payment received was \$149.72.

For the remaining requests: 33 were fulfilled at no cost to the requestor under the office’s simple request fee waiver, eight requests had no responsive records, two were either abandoned or withdrawn, and one was referred to the University’s Special Collections and Archives.

Compliance

Of the 404 requests received in FY22, the office processed 23 requests beyond the default statutory completion date of fifteen business days to complete. A fee was charged for 13 of these requests, with an average payment of \$732.61; seven of these requests were from a law firm, seeking records related to the University’s purchase of the former Concordia campus. These requests were extraordinarily broad, and encompassed over 25,000 pages of responsive records. Commercial requests were the next category that required over fifteen business days to complete, with five requests that went beyond the statutory completion date. 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.

Timeliness

The metric the office tracks 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 FY22, the longest time from payment received to records produced was 24 days. The office is also still in the process of responding to one of the public records request, made by the law firm seeking records related to the University’s purchase of the former Concordia campus. The office has remained in regular contact with the firm, and is awaiting word as to whether or not the firm has received all the records it requires in response to its request.

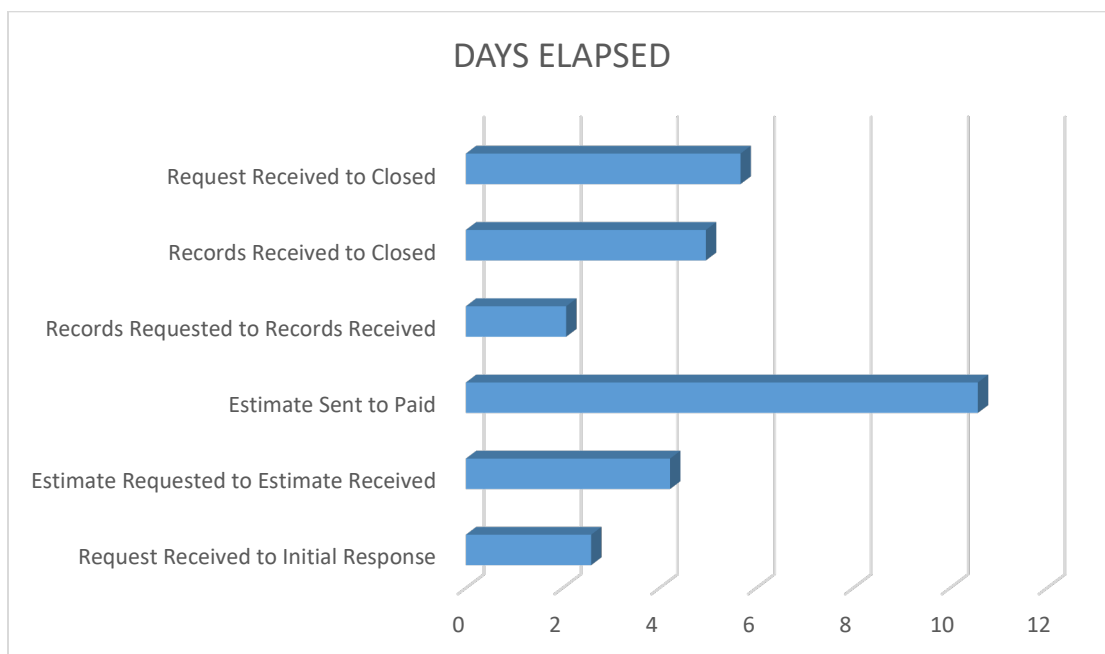


Figure 6

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 FY22, 181 requests had records provided to requestors without redactions, 53 were provided with some redactions, 38 requests were denied in full, 48 had no responsive records, and 83 were closed for other reasons, mostly due to being abandoned by the requester after the office requested payment.

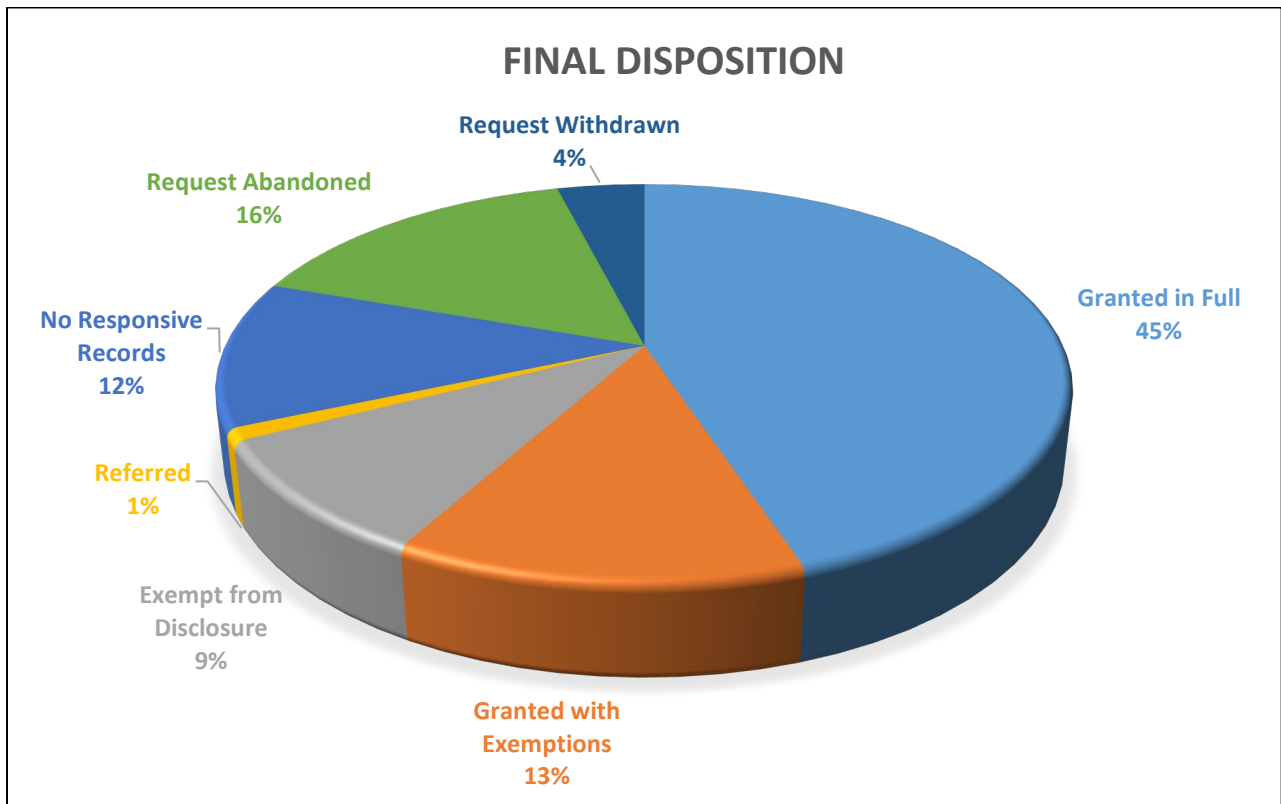


Figure 7

Of the 56 requests that were partially redacted, 18 were redacted for personal privacy, 17 were redacted in part under the federal law exemption in order to comply with the Family Education Rights and Privacy Act (FERPA), 13 were redacted for trade secrets, three were redacted under attorney-client-privilege, two were redacted under the public safety plans exemption, two were redacted under the student email address exemption, and one was redacted to remove information provided under the confidential submissions exemption.

Of the 38 requests denied in full, 28 requests were for documents relating to incomplete RFP/RFQ processes, which are exempt under Oregon law and University policy. The remaining 10 requests were all denied in order to comply with FERPA's protections of student records.

The office also referred four requestors to other campus departments, 15 were withdrawn by the requestor, 48 had no responsive records and 63 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 42 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 received six percent, and the Business Affairs Office and Human Resources each received four percent of the total public records requests.

The remaining requests were distributed relatively evenly across the University, with concentrations in the Office of the General Counsel, Safety and Risk Services, Office of the President, the Law School, Dean of Students, and the Office of Investigations and Civil Rights Compliance (*figure 7*).

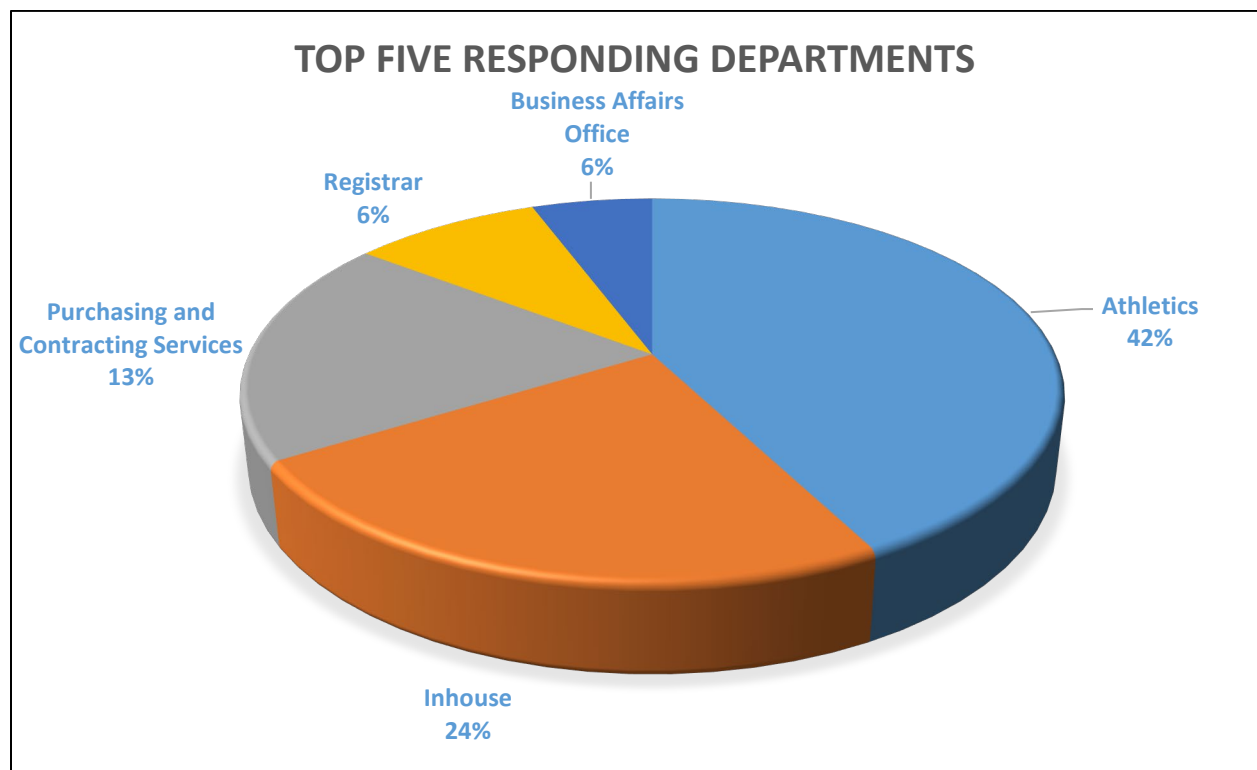


Figure 8

Additional Progress

The office hosted its first hybrid version of the annual Public Records Roundtable in September. Public Records and Records Management professionals from the cities of Eugene, Veneta, and Portland, Oregon Health and Science University, Oregon Institute of Technology, Oregon State University, Portland Community College, Portland State University, and Southern Oregon University, joined the University of Oregon's Public Records Office for discussion of industry best practices and the many challenges faced by our offices. Topics included a presentation from the Public Records Advocate, an update on the role and work of the Sunshine Committee, and a discussion of common issues among our offices. The event was well received, and the office looks forward to hosting a sixth roundtable next summer.

Challenges

While things have improved significantly from FY20 and FY21, COVID-19 continued to have lingering effects on the public records process. While campus partners continue to do an excellent job of managing the trickle-down effects of the pandemic, response to some requests was delayed due to staffing challenges. Additionally, the office has noted a decrease in the overall number of requests, and a change in the makeup of requestors. Specifically, the office has noticed a sharp decrease in participation in the public records process by student media since 2020. The office is in the process of surveying other public records offices within Higher Education, to see if this pattern is present elsewhere.

The office has also noted an increase in requests for “any and all” records, rather than specific records. While the majority of requests received by the office are targeted to specific records, requests for “any and all” records are time consuming to process, and thus expensive to the requestor. These requests generally tend to come from requestors who are new to the office, and may stem from an unfamiliarity with the public records process. The office has updated its website to make its processes more transparent, and hopes this will be of assistance to new requestors.

Future Endeavors

The office looks forward to hosting a sixth annual Public Records Roundtable this summer. Staff will also continue with their professional development by attending the Council on Governmental Ethics Laws.