

Introduction to Oregon Public Records Law

State Board of Aviation
May 2, 2024

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Agenda

● Overview of ORS Chapter 192

● Public Records Requests

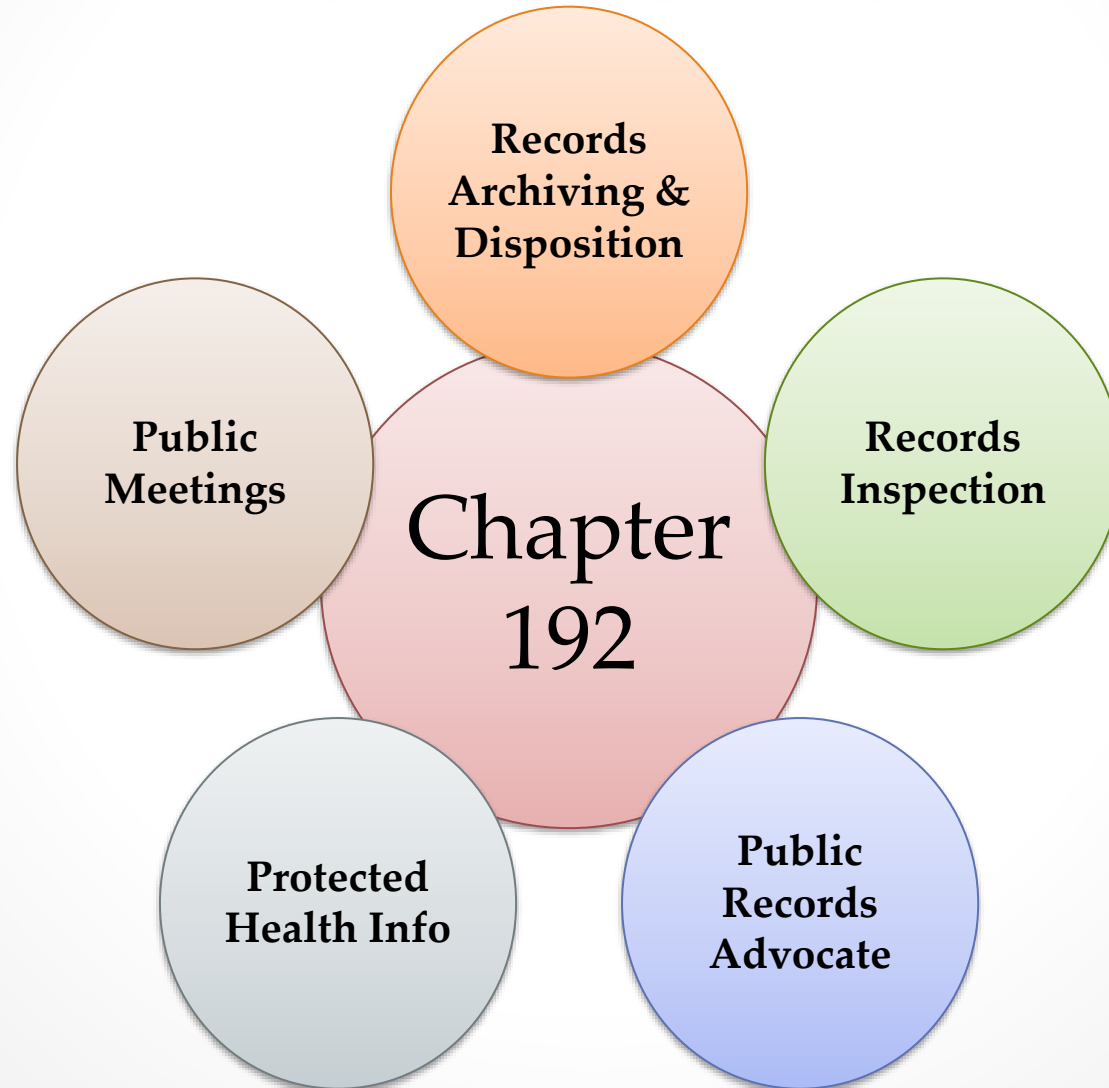
● Exemptions from Disclosure

● Public Records Appeals

● State Archivist



Oregon Public Records Law



Public Records Requests



Keys to Success

- Know the Rules
- Communicate
- Manage Expectations
- Know Your Records Management System
- Appropriate Prioritization



The Basic Rule

Every person has a right to inspect any public record of a public body in this state * * * .

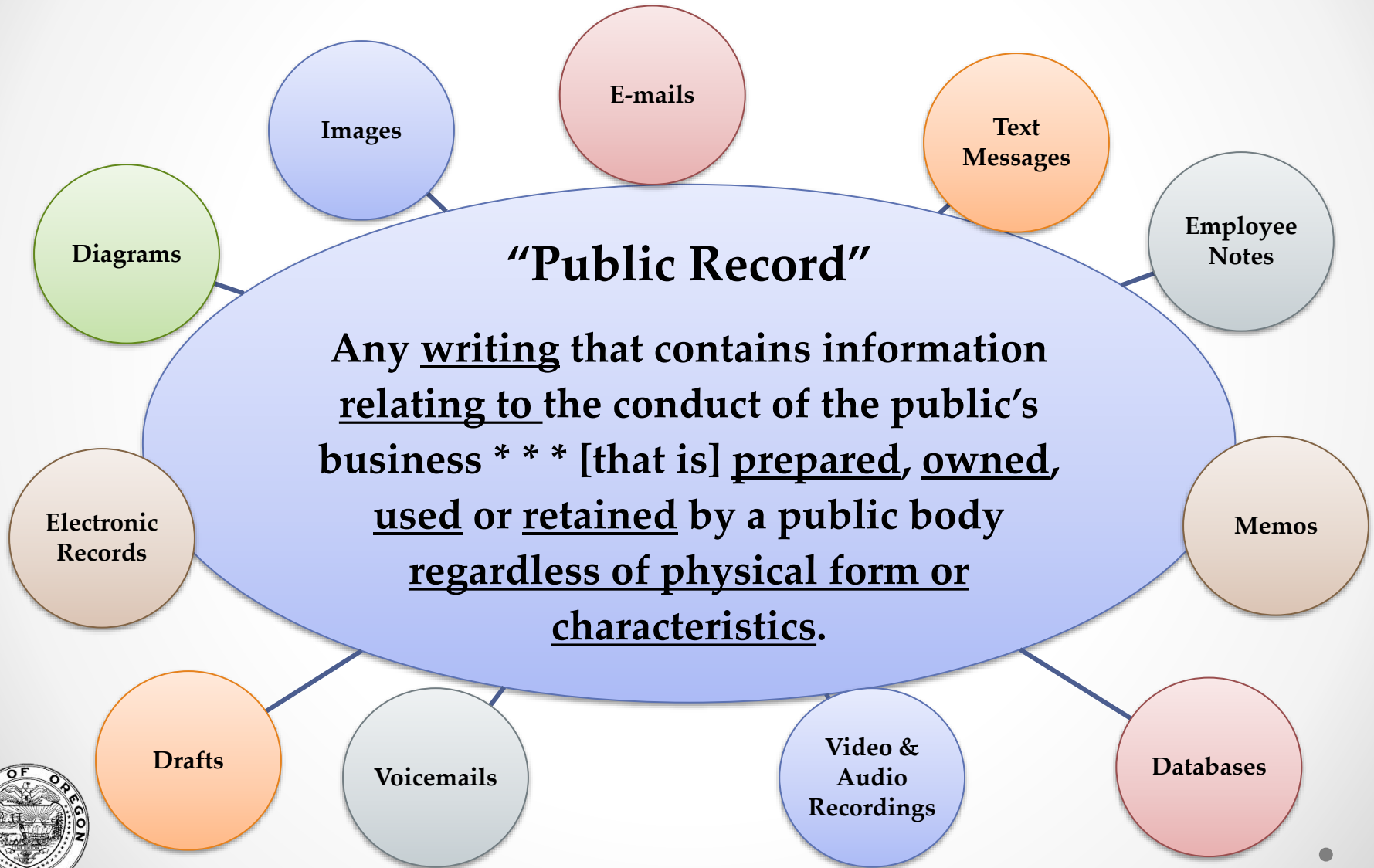


True or False

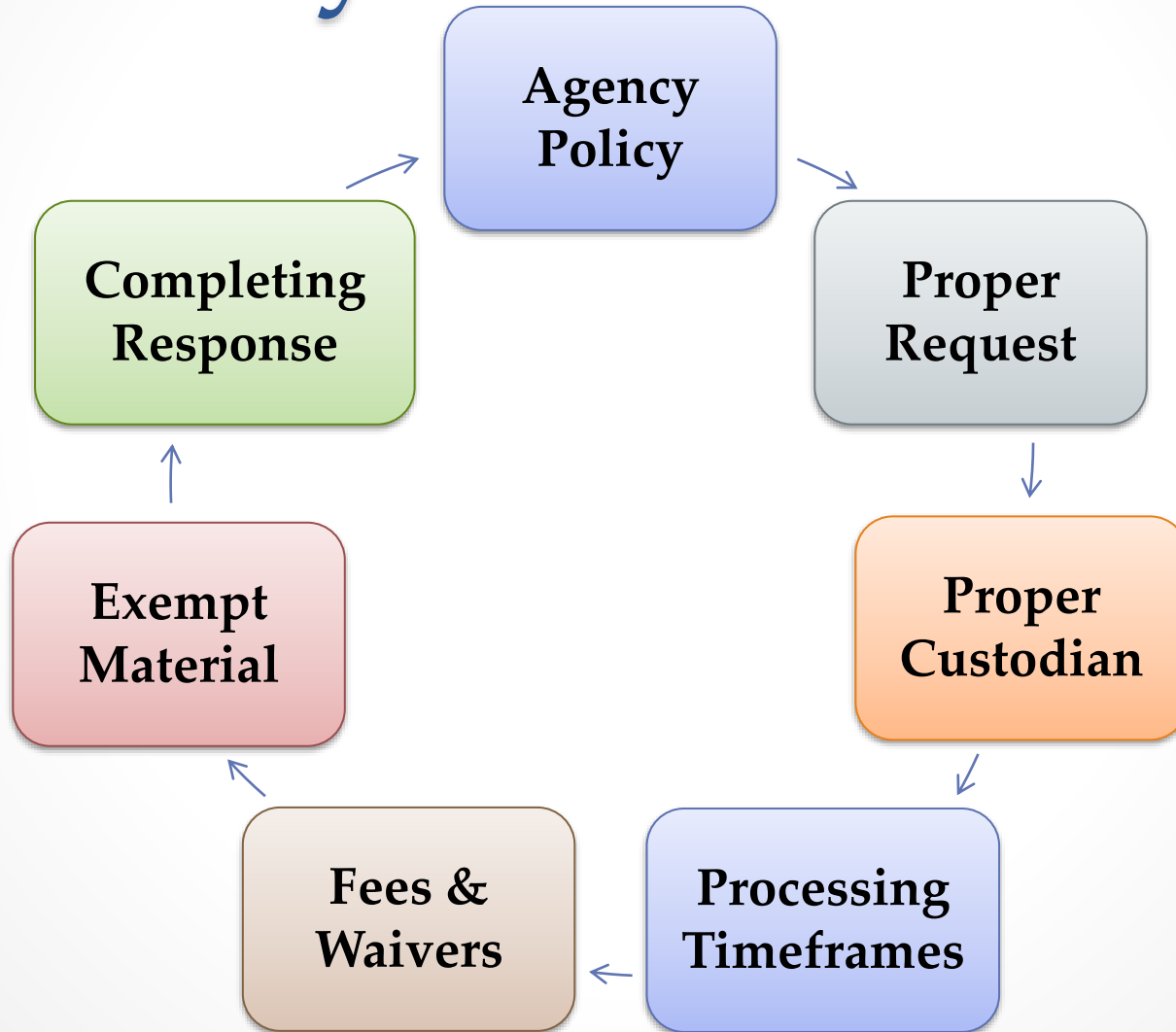
- The definition of a “public record” for purposes of records retention and destruction is the same for purposes of public records requests.



Public Records Inspection



Public Records Requests Primary Considerations



OAR 738-001-0035

Oregon Department of Aviation

Chapter 738

Division 1

PROCEDURAL RULES

738-001-0035

Public Records Access and Fees

- (1) All information in the custody of the Director of the Oregon Department of Aviation ODA shall be disclosed or protected from disclosure in accordance with Chapter 192 of the Oregon Revised Statutes.
- (2) As used in this rule, "public record" has the meaning given in ORS 192.005(5).
- (3) A request for public records must:
 - (a) Be in writing;
 - (b) Be dated;
 - (c) Include the requestor's name, address, telephone number, and email address (if one exists); and;
 - (d) Adequately describe the public records being requested.
- (4) Requestors may use ODA's public records request form, available at <https://www.oregon.gov/aviation/>
- (5) ODA shall respond to all requests for public records as soon as practicable and without unreasonable delay, according to the timelines outlined in ORS 192.324 and ORS 192.329.
- (6) ODA adopts DAS Statewide Policy 107-001-030 to calculate fees and to determine whether a request for fee waiver or reduction meets the public interest thresholds.
- (7) ODA may require pre-payment of any fees associated with a request for public records before work begins to prepare a response, or if work has already begun, before any responsive records are released.
- (8) Requests for fee waivers or reductions must be in writing and must succinctly state the basis on which the requestor seeks the fee waiver or reduction and explain how the request meets the public interest threshold described in DAS Statewide Policy 107-001-030.
- (9) An individual or entity that chooses to receive meeting agendas, materials or email updates electronically may subscribe by visiting ODA's website.





PUBLIC RECORDS REQUEST FORM

Public records requests must be made to the government agency that is in possession of those records. This form is for requesting public records that are held by the Oregon Department of Aviation. If the records you seek are held by another public body, you should instead request them from that body. Requester will receive acknowledgement from ODA within five (5) days from when the request is received by ODA.

For questions regarding public records, please contact the Oregon Department of Aviation Public Records Coordinator by e-mailing requests@aviation.state.or.us or calling (503) 378-4880.

Requester Information

Your Name*

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Prefix (optional)

First Name

Middle Name (optional)

Last Name

Group/Organization


Email Address*

Phone*

Record(s) Requested

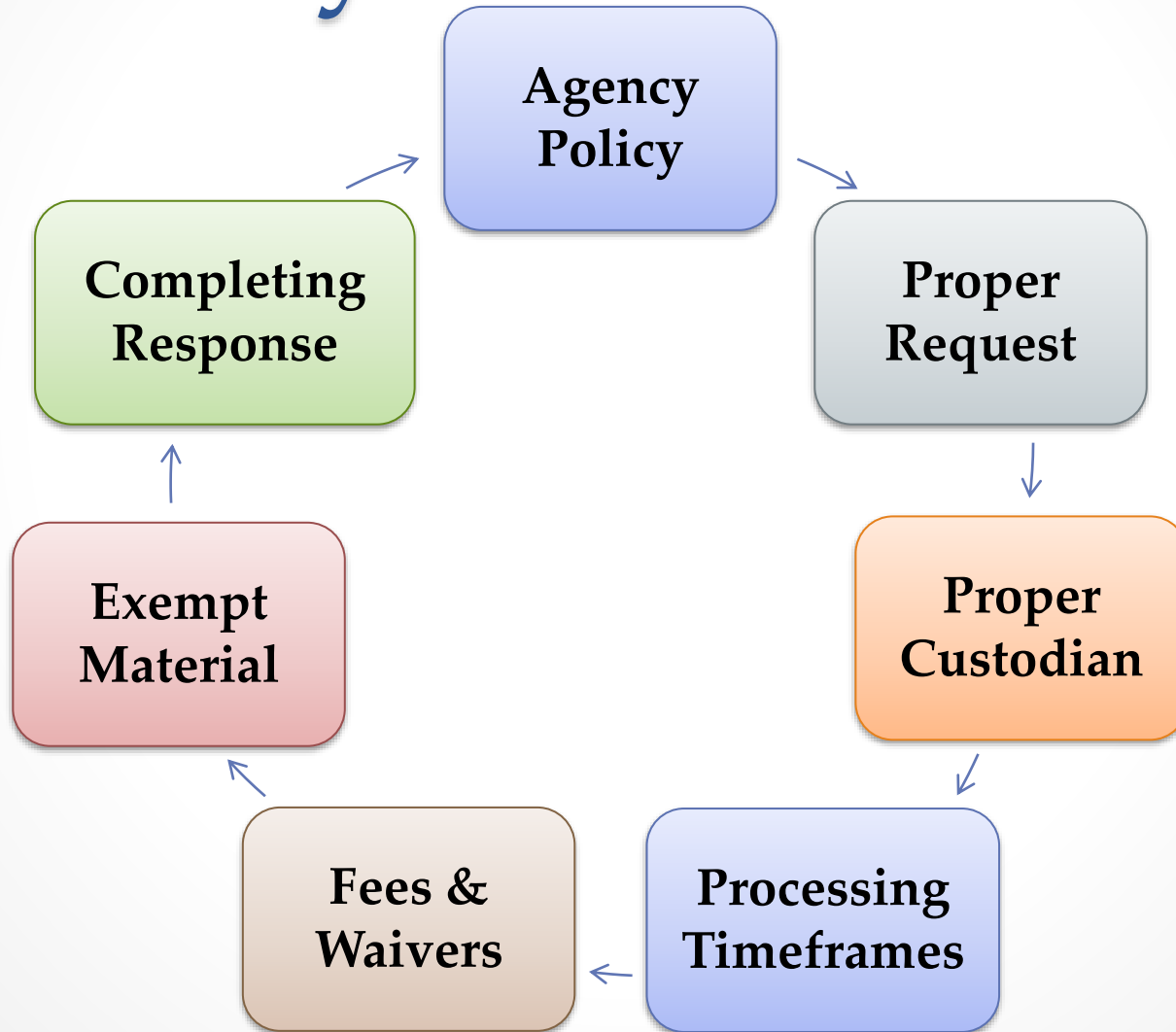
Please describe your request:*

Supporting Documents or Attachments


Drag and drop here or [Browse files](#)
Max file size: 10 MB



Public Records Requests Primary Considerations

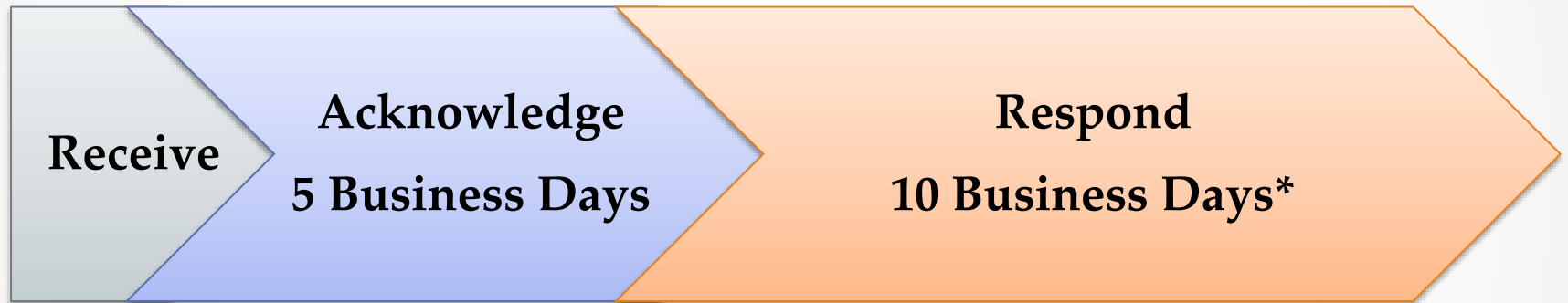


Quiz

- **When must an agency complete its response to a public records request?**
 - a. Within 10 days
 - b. Within 15 business days
 - c. As soon as practicable and without unreasonable delay
 - d. Within 15 business days of receipt of payment of any processing fees



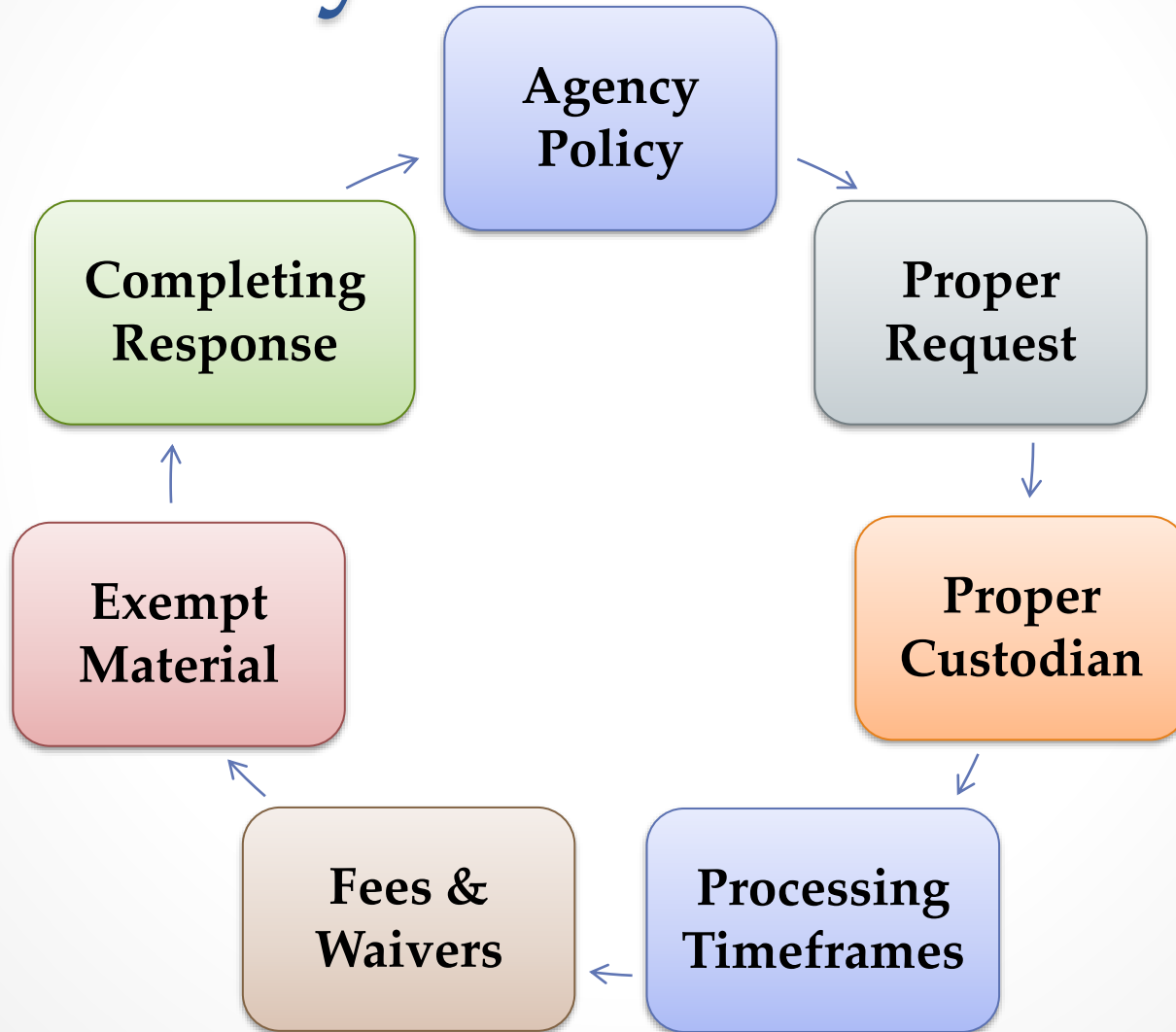
Minimum Timeframes



*Or provide reasonable estimated completion date



Public Records Requests Primary Considerations



True or False

- State agencies must waive or reduce their processing fees if disclosure will primarily benefit the general public.

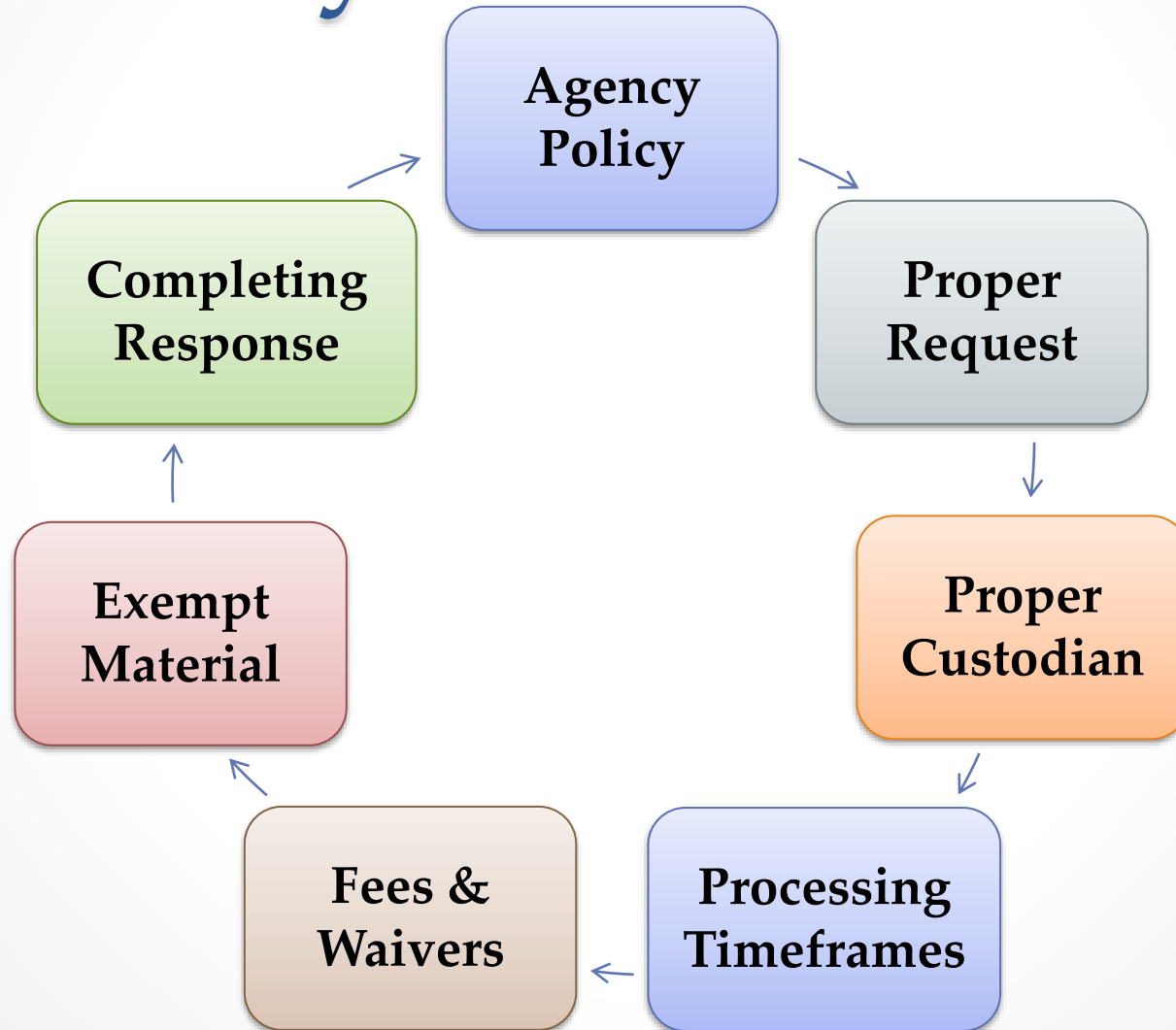


Fees

- Permitted to recover actual costs
- Public interest fee waivers & reductions
- *See DAS Statewide Policy on Public Records Requests Fees and Charges (Feb 15, 2017)*



Public Records Requests Primary Considerations



Public Records Exemptions

DRAFT 05/01/14

V. [REDACTED]

A. [REDACTED]
[REDACTED]
[REDACTED] See Attachment 5A.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B. [REDACTED]
[REDACTED] See Attachment 5A.
[REDACTED]

C. [REDACTED]
[REDACTED]
[REDACTED]

D. [REDACTED]
[REDACTED]
1. [REDACTED]
[REDACTED]
[REDACTED]

Page 22 of 42

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE WORK PRODUCT

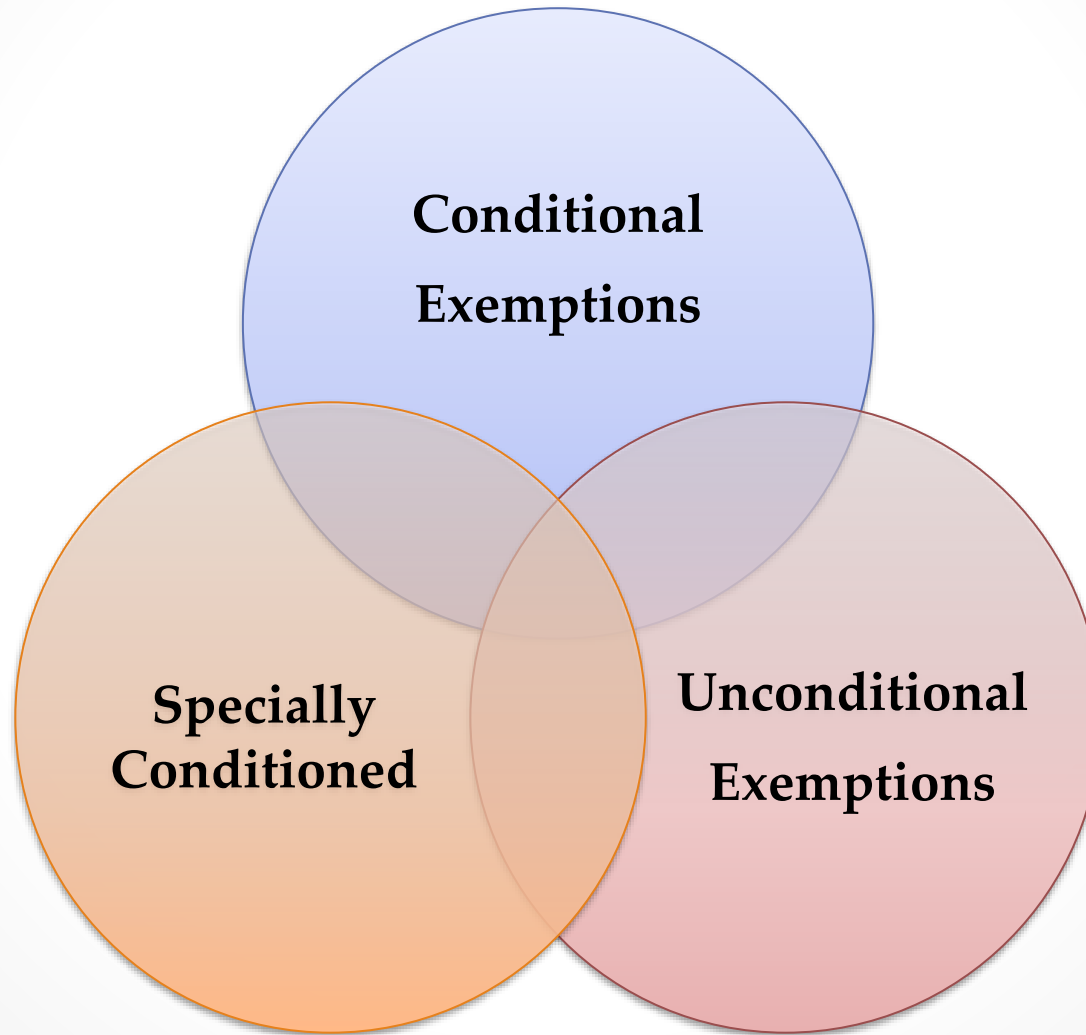


Quiz

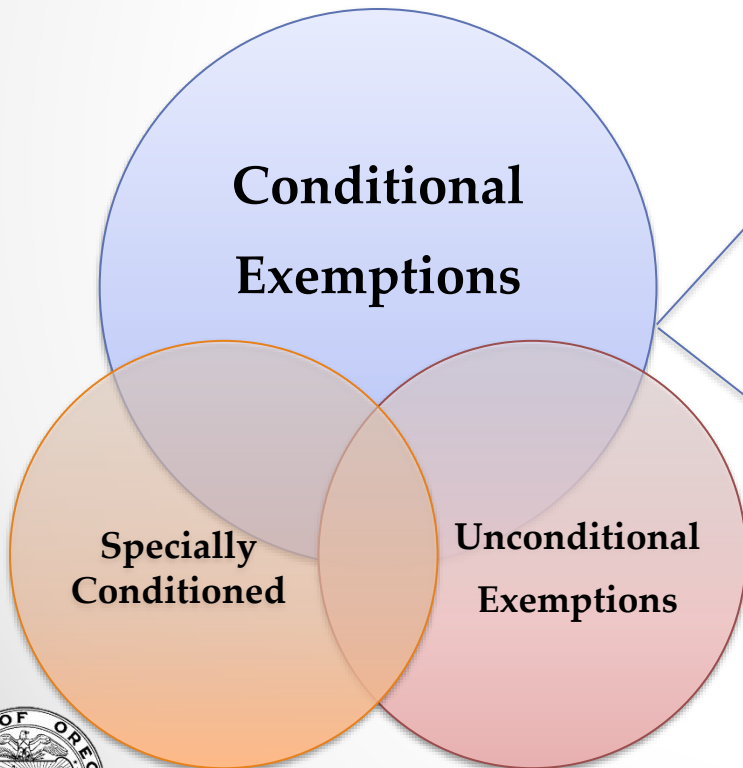
- **How many statutory exemptions does Oregon have?**
 - a. Less than 100
 - b. Between 100 and 300
 - c. Between 300 and 500
 - d. More than 500



Exemptions from Disclosure



Conditional Exemptions



Public Interest Balancing Test

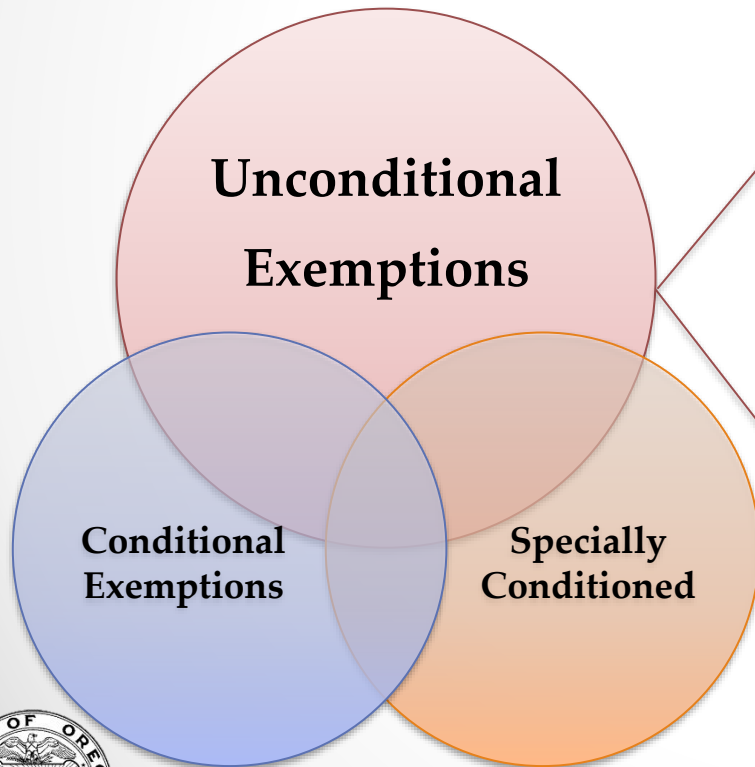
Records *may* be withheld
“unless the public interest
requires disclosure in the
particular instance.”

Examples

Litigation materials
Trade secrets
Criminal investigatory info
Employee disciplinary info
Medical examiner reports



Unconditional Exemptions



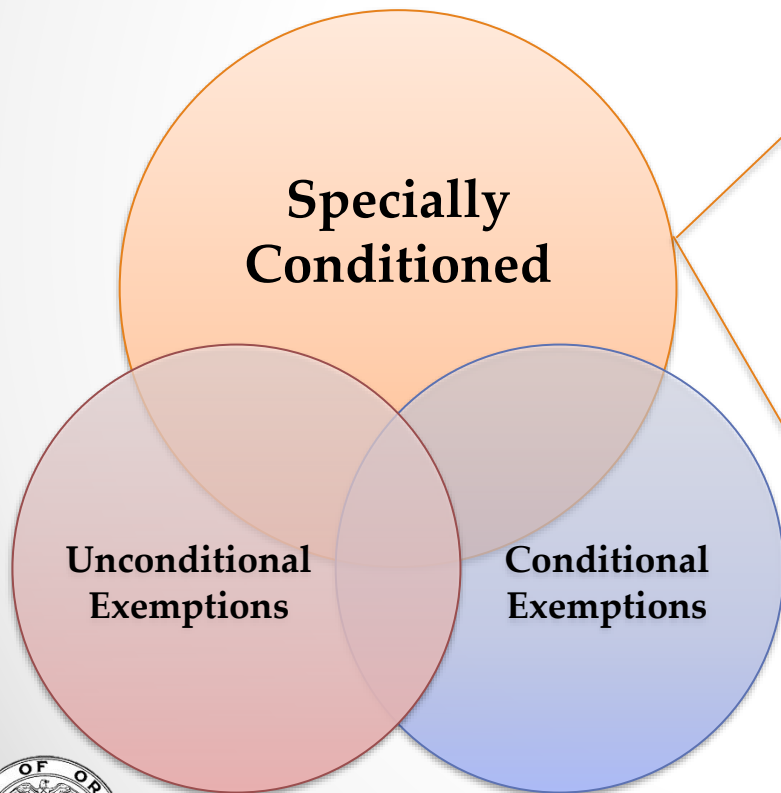
No Public Interest Balancing Test
Some Limits on Agency Discretion

Examples

Disclosure restricted by state law
Disclosure prohibited by federal law
Certain public safety officer info
Certain public employee info
Personal email addresses
Library records
DMV records



Specially Conditioned Exemptions



Disclosure may be conditioned upon:

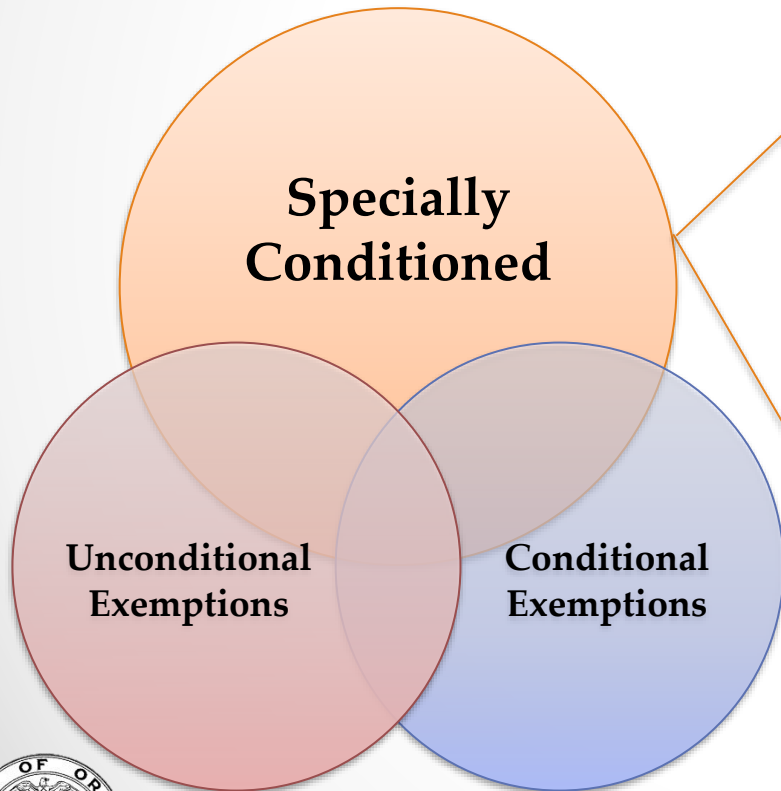
**Heightened public interest
Higher evidentiary standards
Shifting burden of proof
Agency discretion**

Examples

**Personal information (privacy)
Internal advisory communications
Information submitted in confidence
Public employee personal info
Concealed handgun license info
Certain Corrections info
Transferred records**



State Law Catchall



Information the disclosure of which is restricted, confidential or privileged under Oregon Law.

Examples

Child and elder abuse records
Personal health information
Public assistance records
Evidentiary privileges
Adoption records
Juvenile records
Tax information



True or False

- If a record is expressly exempt from disclosure, it remains exempt forever.

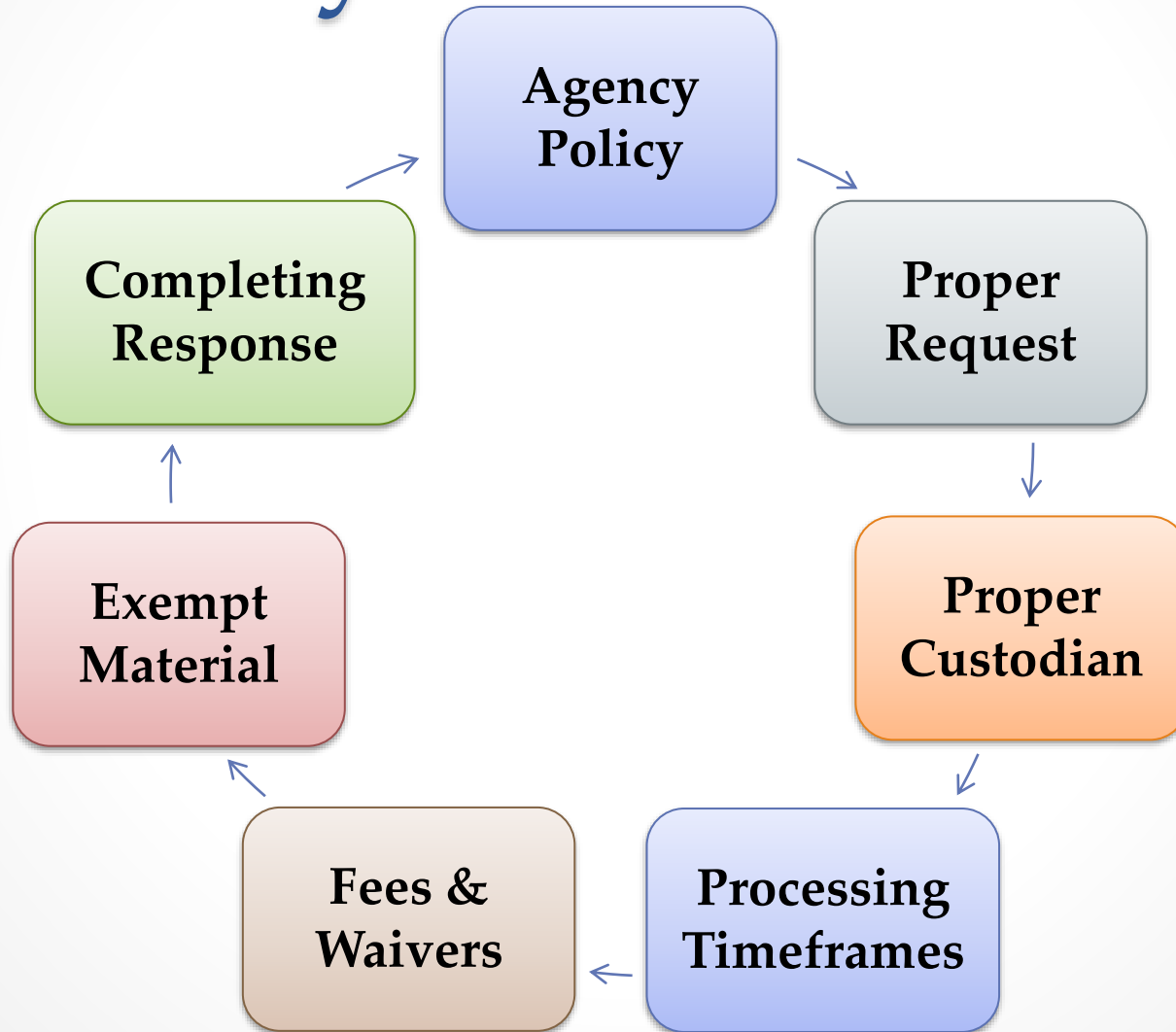


25-Year Rule

Most records that are more than 25 years old “shall be available for inspection.”



Public Records Requests Primary Considerations



Completing The Response



Disclose all non-exempt records



Identify exemptions



Segregate non-exempt material



Notify requester of appeal rights



Appeals and Enforcement



What May Be Appealed?



Denials and Partial Denials



Failure to Respond Within Prescribed Time Period



Estimated Completion Date Unreasonable



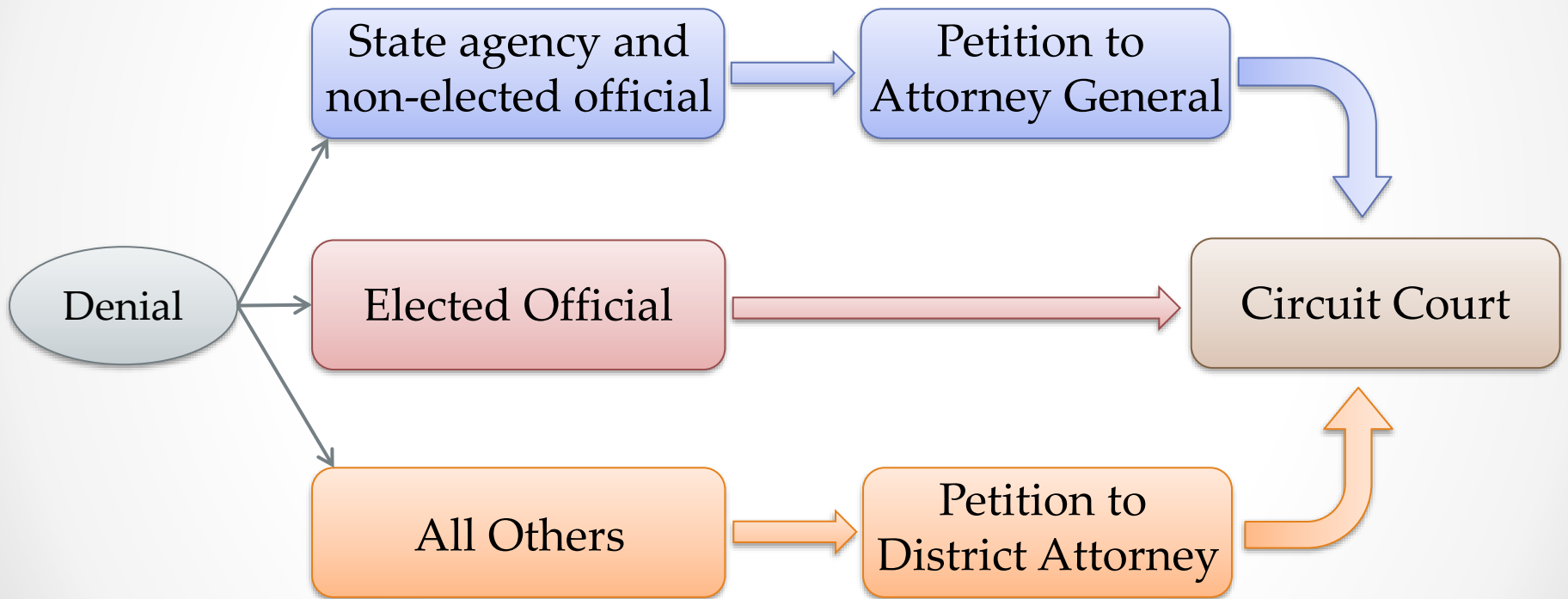
Denials of Fee Waivers/Reductions



Any Other Failure to Comply with ORS 192.329



Appeals and Enforcement



Quiz

- **If the AG determines that an agency has failed to respond to a request within the applicable timeframes, she may:**
 - a. Order disclosure of records w/in 7 days
 - b. Order agency to pay a \$200 penalty
 - c. Order the agency to waive or reduce its fees
 - d. All of the above
 - e. a & c above



Resources for Responding to Public Records Requests

DOJ Contact Counsel

AG's Public Records Manual

Public Records Advocate

HELP

DOJ Exemptions List

AG Public Records Orders

DAS Statewide Policy on Fees

