

Public Records Law

District Training Week
February 2021



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DEPARTMENT OF
AGRICULTURE

Housekeeping

- Please mute your microphone and/or telephone.
- The session will be recorded.
- Feel free to ask questions at any time via the chat box or verbally.
- I'm not a lawyer – this isn't legal advice.
- This only scratches the surface of important topics.
- Recordings and reference materials available on ODA website.



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Basic Law

“Every *person* has a right to inspect *any public record* of a public body of this state, *except* as otherwise *expressly provided* by ORS 192.501 to 192.505.”

ORS 192.420(1)

Who Can Inspect Public Records?

- “Every person.”
 - “Person” means any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.
- Motives of the requestor generally are irrelevant.

Who is Subject to the Records Law?

- Any public body that is the “custodian” of public records.
 - Public body includes all state, local, regional entities and officers, including courts.
 - “Custodian” is the public body mandated, directly or indirectly, to create, maintain, care for or control a public record.
- Private entities, even if contracted with the state, generally are not public bodies.
 - Records of private bodies that are in custody and control of a public body may be covered.

What Records are Subject to Public Records Law?

- Any public record of any public body.
 - Public record includes any “writing” containing information relating to conduct of public business;
 - That is prepared owned, used or retained by a public body;
 - Regardless of physical form or characteristic.
- “Writing” is broadly defined and includes email, text, and voicemail.



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Duties of Public Records Custodian

- Must segregate exempt material from nonexempt material and disclose the nonexempt material.
- Must furnish proper and reasonable opportunity for inspection.
 - General right to inspect original documents..
 - Inform the requestor if information has been redacted.
- Must furnish reasonable facilities for making memoranda and abstract.

Prerogatives of Public Records Custodian

- May make reasonable rules and regulations.
- May consult with counsel before responding to a request.
- May establish fees “reasonably calculated” to reimburse for its “actual cost” in making records available.
- May reduce or waive fees if in the public interest.



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Public Records Policy

The Board must adopt written procedures for responding to public record requests that includes:

- The name of one or more person to whom public records requests may be sent, with address; and
- The amounts of and the manner of calculating fees that the public body charges for responding to requests for public records.



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Public Records Policy

- Acknowledge receipt of public records request – 5 days
 - Confirm that the public body is the custodian or not.
- Within 10 days of acknowledging receipt:
 - Provide records
 - Ask for clarification
 - Explain why it will take longer
- If fees are greater than \$25, must provide estimate to the requestor.
- If no response to fee estimate or clarification questions in 60 days, may close request.

Public Records Exempt from Disclosure

- Extremely numerous and listed in statute.
- Consult with counsel if in doubt.
- Employees' residential/personal information generally exempt.
- Employees' work information, including salary are not exempt.
- Elected Officials address, phone number, and date of birth not exempt unless they claim personal safety exemption in writing.



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Public Records Retention

- Rules provide for the orderly retention and disposition of public records regardless of format.
- The Board should have a records retention policy.
- If you don't need to keep the record, you should get rid of it.. If you have it, it has to be disclosed.
- Throw a shredding party once a year!

Questions?

