



Public Records Request Policy

Purpose

To formalize a consistent method of responding to requests for public records in a manner that complies with the public records law, while allowing for efficiency in managing the impact on agency workload.

Policy

The Office of the Secretary of State complies with the Oregon Public Records Law and responds to public record requests as soon as practicable and without unreasonable delay, in the manner described below. ORS 192.440(7) requires every public body to make available to the public a written procedure for making public record requests.

The Secretary of State routinely receives requests for information. For easily completed requests of commonly-requested and readily accessible data or information, the Communications Director or other Public Records Officer (or his/her designee) may provide information over email or phone without charge.

Because many divisions of the Secretary of State's office provide public records as a part of their core mission, they may adopt and follow their own division policies for providing routine public records.

The public records policy outlined below covers any and all requests from the media as well as any large and/or unusual requests received by a division.

Procedures

1. Public records request procedure.

The Communications Director of the Secretary of State processes and coordinates all public records requests to any division that comes from the media, and serves as Public Records officer for the Executive Division of the Secretary of State. If the Communications Director position is temporarily unfilled, the Secretary will appoint a member of Executive Staff to provide this function. Each division shall also have a Public Records officer, appointed by the Director of that division. Consistent with the policy above, Division Directors may use their discretion regarding the response to routine requests for their Division. Division Officers are responsible to notify the front office of any requests from the media, and any large and/or unusual requests from any source.

Large requests that require significant staff time or resources should be tracked as formal public records requests. Requesters should be required to submit these requests in writing and be designated by the requestor as a public records request.

When a division receives a public records request from a member of the media, they can proceed one of two ways. Either they can direct the requestor to take their request directly to the Communications Director, who is responsible for processing media requests and for consulting on complex requests from any source. Alternatively, they can get the request in writing from the requestor and forward that request directly to the Communications Director.

Upon receipt of a public records request from the media, the Communications Director, or her designee, shall promptly provide a response acknowledging receipt of the request “as soon as practicable and without unreasonable delay.”

The following information should be collected for each formal public records request:

- Name of the requestor
- Date received
- Organization the requestor represents, if any
- Address, phone number, and email contact
- Description of the information they are requesting

These details will help with fulfilling the request and keeping track of the request in the Secretary of State’s public records log or in a similar log kept by the Division (see below).

2. Initial response to public records requests.

After receiving a request from the media for a public record or document, the Communications Director, in consultation with Executive staff, will respond to public records requests as soon as practicable and without unreasonable delay. Division policies should also reflect these policies. Appropriate responses include:

- A statement that the Secretary of State does or does not have custody of the requested document(s);
 - Copies of all requested public records for which the Secretary of State does not claim an exemption from disclosure under ORS 192.410 to 192.505 (see information on exemptions below);
 - A statement that the Office of the Secretary of State is the custodian of some responsive records, an estimate of time in which copies will be provided or inspection will be available, and an estimate of the fees the requestor must pay;
 - A statement that the Secretary of State is uncertain whether it possesses any requested records and that it will search for the requested records and respond as soon as practicable; or
 - A statement that state or federal law prohibits the Secretary of State from acknowledging whether the record exists and a citation to the relevant state or federal law.
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For requests of physical documents, the Secretary of State's office will provide an opportunity to inspect or obtain copies.

- If a record is neither exempt nor confidential, ORS 192.430 requires a custodian of public records to provide "proper and reasonable opportunities for inspection and examination of the records in the office of the custodian" during usual business hours to persons seeking access to public records. A requester may also request physical copies of the request if the originals are not stored in a secured location. If a record is stored in a secure location, the requester will be provided a photocopy of the record.

3. Clarification of public records requests.

If the Secretary of State receives an unusual request or the scope of the request is unclear or overly broad, the Office may request additional clarification or narrowing before responding to the request.

4. Availability of public records requests.

Information on all public record requests directed to and processed by the Executive Office will be made available upon request.

- A log of public records requests will be housed in the Executive Office of the Secretary of State. Divisions shall keep similar logs of official public records requests.
- This log will include the requestor's name, organization, the nature of the request, and date of the request. The status of the request will be updated once processing has begun and is fulfilled.
- The public records log will be updated with each request received by the Secretary of State.

5. Non-responsive requestors.

If a requestor fails to respond to inquiries for clarifications, cost estimates, or any other communication from the Secretary of State within 10 business days, the status of the request will be changed to "Non-Responsive Requestor."

Non-responsive requests may be resubmitted.

Cost

Reasonable fees may be charged for the time it takes staff to compile, copy, research, locate and/or review public records for exemptions. The Secretary of State's policy is not to charge for the time that members of the Executive staff spend reviewing records; however, the Executive staff is not required to prioritize public records requests above other duties. Division policies may include the potential for charging for staff time when appropriate.

Each division shall adopt a policy for charging fees. The divisions should establish clear policies on when to charge and how much.

If the decision is made to charge a fee, the requester must be given notice ahead of time. They then have the opportunity to modify their request in order to reduce the amount of work and the size of the fee.

Exempt/Confidential Records

The Public Records Law is primarily a disclosure law, not a confidentiality law, according to [the Attorney General's Public Records and Meetings Manual](#). However, some public records are exempt from disclosure.

Under Oregon law, a public body is ordinarily free to disclose a record or information even if an exemption applies to that record or information. But there are some categories of records and information that public bodies are legally prohibited from disclosing or that they may disclose only to specified entities or in specified circumstances.

The Communications Director, Executive staff, and the divisions should carefully consider whether any records are exempt or confidential. If a record is potentially exempt, but not confidential, the public interest in disclosure must be weighed against the purpose of the exemption. Any decision to withhold records is subject to review by the Attorney General.
