



**Committee Members**

Julia Brim-Edwards, Chair  
Rita Moore  
Mike Rosen

**PORTLAND SCHOOL DISTRICT NO. 1  
PUBLIC MEETING NOTICE**

The Board's Policy and Governance Task Force  
is scheduled to meet on the following date:

**Friday, August 25, 2017**

**at 2:30 pm**

in the

Wy'East Conference Room  
Blanchard Education Service Center  
501 N. Dixon Street  
Portland, Oregon 97227

**AGENDA**

1. Complaint Process
2. Public Records Request Process

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Board at 503-916-3741.

This notice is provided in accordance with provisions of the  
Oregon Open Meeting Law

Office of the Board Support Services

**Portland Public Schools Nondiscrimination Statement**

Portland Public Schools recognizes the diversity and worth of all individuals and groups and their roles in society. The District is committed to equal opportunity and nondiscrimination based on race; national or ethnic origin; color; sex; religion; age; sexual orientation; gender expression or identity; pregnancy; marital status; familial status; economic status or source of income; mental or physical disability or perceived disability; or military service.

*This meeting may be taped and televised by the media. Materials for this meeting are available at the following website: <http://www.pps.k12.or.us/departments/board/858.htm>*

*Portland Public Schools is an affirmative action and equal opportunity employer.*

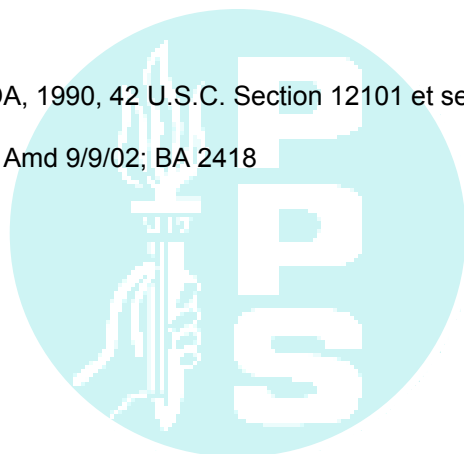
## 2.50.010-P Public Access to District Records

It is the intent of the board that all district material is considered a public record unless exempt by ORS 192. Public records should be provided promptly and courteously for inspection upon request.

- (1) The superintendent shall develop administrative directives and procedures.
- (2) Appropriate fees for copies of Board and district records shall be charged pursuant to Administrative Directive 2.50.012-AD.
- (3) Such records shall be made available to persons with disabilities in an appropriate format on request in accordance with the requirements of the Americans with Disabilities Act. No fee to cover the costs of providing records in an alternative format shall be charged. All other actual costs may be recovered, consistent with Board policies, administrative directives and the public records law.

Legal References: ORS 192; ADA, 1990, 42 U.S.C. Section 12101 et seq. 29 CFR Part 1630

History: Adpt 12/8/80; Amd 1/84; Amd 9/9/02; BA 2418



## **2.50.010-P Public Access to District Records**

In order to promote transparency and provide an accurate accounting of how the district carries out the public's business it is the intent of the board that all district records should be disclosed upon request even if an exemption could apply, unless the district is prohibited by law from disclosing the information or disclosure of the information could create legal, physical or business harm to the district. The district shall rely upon the definition of "Public record" laid out in ORS 192.410(4)(a). Public records will be provided promptly and courteously for inspection upon request.

- (1) The superintendent shall hire a Public Records Officer and develop administrative directives and procedures to provide clarity and consistency to the public about access to public records, laws regarding public records, and internal processes.
- (2) It is the goal of the school district to provide the public with records at no cost whenever possible. The superintendent shall develop clear guidelines regarding when it is appropriate to charge fees.
- (3) The district recognizes that it is in possession of sensitive and confidential information about our students, staff and families. In responding to public records requests, the district will weigh the need for transparency with the need to protect confidentiality. The district will balance these values in accordance with the provisions of the ORS 192 and the Attorney General's Public Records Manual.
- (4) When public records are requested that could be considered exempt under one of the conditional exemptions laid out in ORS 192.501 and ORS 192.502 the district shall operate under the presumption that the records are public and should be disclosed unless there are clear legal or business reasons not to.
- (5) Such records shall be made available to persons with disabilities in an appropriate format on request in accordance with the requirements of the Americans with Disabilities Act. No fee to cover the costs of providing records in an alternative format shall be charged. All other actual costs may be recovered, consistent with district policies regarding fees.
- (6) If the district requires clarification from the requester, such clarification shall be requested in writing, and the requestor shall be informed that work on the request will stop until the clarification is received.
- (7) Requesters who believe the district has inappropriately withheld records or assessed fees may appeal such decisions to the Multnomah County District Attorney or to in the Multnomah County Circuit Court.

History: Adpt 12/8/80; Amd 1/84; Amd 9/9/02; BA 2418

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History: Adpt 12/8/80; Amd 1/84; Amd 9/9/02; BA 2418



**Process for Responding to Requests for Public Records**

- I. Portland Public Schools recognizes and honors the importance of ensuring transparency of government records. Public access to government documents is a foundational value of our democracy and it is the intent of the school district to honor this value. This administrative directive sets forth the process by which members of the public can request records from the school district.
  - A. Public records requests will be reviewed, evaluated and responded to in accordance with the requirements of ORS Chapter 192. The school district will rely on the interpretations of the Public Records Law set forth in the Attorney General’s Public Records and Meetings Manual.
  - B. Members of the public can make public records requests through the Office of Superintendent, the Office of the General Counsel or the Community Involvement and Public Affairs Department.
  - C. It is the intent of the school district to provide records in a timely fashion. The time needed to respond will depend on the complexity of the request. If it will take more than ten (10) working days from the time the request is received to provide the requested information, the school district will communicate that to the requestor along with a projected date for response.
  - D. While state law allows the district to charge for the time and cost in responding to public records request, it is the goal of the school district to provide the public with records at no cost whenever possible. Providing records to the public is a core responsibility of the school district, and in most cases the school district has been able to meet this responsibility without charging requestors for the time involved in responding to the request. However, if a specific request is going to take more than thirty (30) minutes for staff to compile the requested information, or an individual requestor makes multiple requests within a school year, the school district reserves the right to charge for the time involved in responding to the request.
    - 1. Charges for responding to requests shall be as follows:
      - a. For administrative specialist, the district will charge \$45/hour.
      - b. For clerical staff, the district will charge \$30/hour.
      - c. For in-house attorney review, the district will charge \$100/hour.



## ADMINISTRATIVE DIRECTIVE

2.50.012-AD

### Process for Responding to Requests for Public Records

- d. If a request requires the production of documents in hard copy, charges will be made for any documents exceeding 20 pages. Charges will be \$.30/page. For unusually sized documents, or historical documents that are challenging to copy, the district reserves the right to charge an increased price.
  - e. If it is necessary to charge for a request, payment must be made in advance. If staff time is less than the estimated cost, the requestor will be reimbursed the difference.
- E. While the school district honors the spirit of the public records law, the school district also recognizes that it is in possession of sensitive and confidential information about our students, staff and families. In responding to public records request, the school district must weigh the need for transparency with the need to protect confidentiality. The district will balance these values in accordance with the provision of the Public Records Law and the Attorney General's Manual.

Policy References: 2.50.010-P

History: Adpt. 11/8/94; Amd. 10/17/95; Amd. 9/01/02; Amd. 4/15





ADMINISTRATIVE DIRECTIVE

2.50.012-AD

Process for Responding to Requests for Public Records

I. Portland Public Schools honors the importance of transparency of government records. Public access to government documents is a foundational value of our democracy and it is the intent of the school district to honor this value. This administrative directive sets forth the process by which members of the public can request records from the school district and the expectations of the district to fulfill those requests.

A. Public records requests will be reviewed, evaluated and responded to in accordance with the requirements of ORS Chapter 192. The school district will start with the assumption that all records are public records which should be disclosed upon request unless prohibited from release because of federal or state laws that govern student privacy and other confidential information guaranteed to students, families and employees.

B. When in question, the district will rely on the interpretations of the Public Records Law set forth in the Attorney General's Public Records and Meetings Manual, Multnomah County District Attorney Public Records Orders, and Oregon judicial decisions.

C. Members of the public can request public records through the Public Records Officer. No specific form or format is required, but requests should include the requestor's name and contact information and a clear description of the records requested.

D. Each Division of the PPS central office will designate an employee to serve as the point of contact for the Public Records Officer to manage the collection of records for the division in response to public records requests.

E. The school district shall provide requestors with records in compliance with the Public Records Law (ORS 192.410 to 192.505). The time needed to fulfill the request will depend on the complexity of the request, however all requests will be acknowledged no later than five (5) working days after receiving the request. Acknowledgements will include information about whether the records requested exist and are in the possession of the school district.

F. If it will take more than fifteen (15) working days after receiving the request to provide the requested information, the school district will communicate that to the requestor along with a projected date for response.

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ADMINISTRATIVE DIRECTIVE

2.50.012-AD

Process for Responding to Requests for Public Records

G. It is the goal of the school district to provide the public with records at no cost whenever possible. However, if a specific request is going to take more than ninety (90) minutes of staff time or generate more than one hundred dollars (\$100) in costs, the school district reserves the right to charge for the time involved in responding to the request.

1. Costs will be assessed and billed as follows, according to the work performed. The time of the Public Records Office is not time that will be charged as it is the sole function of this position:

a. For clerical tasks, the district will charge \$30/hour.

b. For administrative tasks, the district will charge \$45/hour.

c. For in-house attorney review, the district will charge \$100/hour.

d. If the records request has to be reviewed or prepared by other district officials, or outside counsel or consultants, the District will charge its actual costs of conducting such review.

d. For hard copies in excess of twenty (20) pages, the district may charge \$.30/page. For unusually sized documents, or historical documents that are challenging to copy, the district reserves the right to charge an increased price after price is assessed and requestor agrees.

2. If it is necessary to charge for a request, the Public Records Officer will prepare a written cost estimate for the requestor to approve. Payment must be made in advance, and work on the request will stop until the fees are paid. If staff time is less than the estimated cost, the requestor will be reimbursed the difference.

H. Requestors who wish to request a waiver or reduction of fees may do so in writing through the Public Records Officer. The district will determine if the waiver or reduction is in the public interest by considering any factors or guidance laid out in statutes, public records orders, court decisions, and the Attorney General's Manual. The final decision will be made by a panel composed of the General Counsel, the Superintendent's Chief of Staff, the Director of Media Relations, and the Public Records Officer. The final decision will be communicated to the

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ADMINISTRATIVE DIRECTIVE

2.50.012-AD

Process for Responding to Requests for Public Records

requestor in writing.

I. The district honors the spirit of the public records law and accessibility to information. The district also honors its responsibility to protect the privacy of sensitive and confidential information about students and staff as defined in federal and state laws. In responding to public records request, the school district must weigh the public interest in transparency with the need to protect confidentiality. The district will balance these values in accordance with the provision of the Public Records Law and the Attorney General's Manual.

- 1. If the district determines that it is appropriate to redact or withhold requested records, the district shall provide a statement to the requestor citing the specific statutory exemption or other law that makes the information confidential and why the district is invoking this exemption.
2. If the application of an exemption to a specific record is unclear, the district shall decide whether to redact portions of or withhold records by considering any factors or guidance laid out in statutes, public records orders, court decisions, and the Attorney General's Manual.
3. Requestors who wish to challenge a decision to redact or withhold records may request that the Multnomah County District Attorney or Multnomah County Circuit Court review the decision.

J. To further promote the district's goals of transparency and accountability, the Public Records Officer will:

- 3. Maintain and make public a log of all public records requests, to minimally include name of requestor, date of request, date of acknowledgement, date of final response, and a description of the requested records.
2. Compile data including complexity of requested records, staff time spent on response, time from receipt of request to response, fees assessed, fees waived, and exemptions applied.
3. Generate quarterly reports summarizing the collected data and analyzing trends, and

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ADMINISTRATIVE DIRECTIVE

2.50.012-AD

Process for Responding to Requests for Public Records

- 4. Make recommendations to the board at least annually to update the policy and administrative directive.

Policy References: 2.50.010-P

History: Adpt. 11/8/94; Amd. 10/17/95; Amd. 9/01/02; Amd. 4/15

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**Process for Responding to Requests for Public Records**

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  - F. If it will take more than fifteen (15) working days after receiving the request to provide the requested information, the school district will communicate that to the requestor along with a projected date for response.



**Process for Responding to Requests for Public Records**

- G. It is the goal of the school district to provide the public with records at no cost whenever possible. However, if a specific request is going to take more than ninety (90) minutes of staff time or generate more than one hundred dollars (\$100) in costs, the school district reserves the right to charge for the time involved in responding to the request.
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**Process for Responding to Requests for Public Records**

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  3. Requestors who wish to challenge a decision to redact or withhold records may request that the Multnomah County District Attorney or Multnomah County Circuit Court review the decision.
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## ADMINISTRATIVE DIRECTIVE

**2.50.012-AD**

### **Process for Responding to Requests for Public Records**

3. Generate quarterly reports summarizing the collected data and analyzing trends, and
4. Make recommendations to the board at least annually to update the policy and administrative directive.

Policy References: 2.50.010-P

History: Adpt. 11/8/94; Amd. 10/17/95; Amd. 9/01/02; Amd. 4/15





# Board of Education Informational Report

## **MEMORANDUM**

**Date:** August 25th 2017

**To:** Members of the Board of Education

**From:** Ryan Vandehey, Public Records Officer

**Subject:** Supplementary information about public records

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This memo answers questions posed by the Board at the August 9th FAO committee meeting, relating to:

1. Common exemptions and where there is grey area about whether to disclose or invoke an exemption,
2. Analysis of SB481 and what that law changed in Public Records Law,
3. Analysis of fees and whether the identity of the requester can have any impact on whether or not fees are charged.

### **1. Exemptions**

As discussed with the Board, the most common grey areas (where disclosing records and withholding records are both valid options) arise with requests for personnel records and other personal information. I am still compiling a list for the Board of specific exemptions, with discussion of how they interact. To keep this discussion moving, Jeff Condit will be present at the Friday Task Force meeting this week; he is ready and able to speak to this topic.

### **2. Senate Bill 481**

At the board's request, here is a summary of important changes to Public Records Law introduced by Senate Bill 481, passed in the most recent legislative session. Most notably, this bill mandates statutory timelines for public records responses.

#### **Definition of Business Day**

Bill defines "business day" for the purpose of response timelines. Does not include Saturdays, Sundays, legal holidays, or "any day on which the central administration offices ... are closed." Does include "any day ... on which at least one paid employee ... is scheduled to and does report to work."

#### **Acknowledgements**

Public bodies must acknowledge requests in writing within five business days after receiving the request. Acknowledgements must confirm or deny that the public body is the custodian of the requested records, or state “that the public body is uncertain whether [it] is the custodian.”

## **Responses**

Public bodies must respond (e.g. provide records) within fifteen business days of receiving the request. Response must be complete or public body must provide a written statement with a “reasonable estimated date” of when response will be complete. These time periods can be waived in cases where impracticable.

Responses are considered complete once:

- Copies of (or access to) all requested records are provided, and
- Any exemptions have been asserted, and
- Where relevant, exempt and nonexempt material has been segregated, and
- Where relevant, we have asserted that we are not the custodian of some or all records, and
- Where relevant, we cite federal law that prevents acknowledgement, and
- If exemptions asserted, we state that requester may seek review of that determination.

## **Failure of Requester to respond**

Public bodies are now directed to close a request if the requester fails to:

- Pay fees within 60 days of assessment,
- Pay fees within 60 days of denial of fee waiver, or
- Respond within 60 days to a “good-faith request for information or clarification.”

## **Additional Review**

Currently requesters may appeal the public body’s decision when public bodies withhold records or refuse to waive fees. This bill additionally allows requesters to appeal when:

- a public body fails to complete their response within prescribed timelines (this “shall be treated as a denial”),
- a public body provides an estimated completion date instead of a complete response and the requester “believes that the estimate time frame ... is unreasonably long,” or
- “Any other instance in which [requester] believes the public body has failed to comply with” the rules regarding responses and prescribed timelines.

## **Impact to PPS**

Realistically, PPS is already in compliance with most of these requirements. PPS currently acknowledges all requests within 48 hours of receipt, follows all of the above steps related to responses, and fulfills most responses within fifteen business days. For those requests that take longer, it is because the nature of the records require more time to compile or review, and we keep the requestors updated as to our progress.

To avoid excessive appeals, we should continue to send all written responses within statutory timelines, provide (and explain) reasonable estimates of time to complete requests, and make sure all decisions appear fair and reasonable. Documenting our

process in these decisions will be critical. Again, these are things we already do, but if a requestor can appeal because they believe we're not following the rules, we need to make sure we appear above board at all times.

### **3. Fees**

Following our conversation, I reviewed how other agencies assess fees, I reviewed our internal systems, and I looked at a specific question from the board.

#### **Review of Other Public Bodies**

I looked at the published fee schedules for 41 other agencies in Oregon, comparing charges for paper copies of records and staff time. The average charges are \$0.36/page for copies with average labor rates of \$27.82/hour (clerical rate) to \$53.99/hour (admin/manager rate). Only nine agencies publish a set rate for attorney review, and those rates average to \$133.87/hour. 50% of agencies charge for all staff time spent on requests, while 46% provide 15 or 30 minutes of staff time at no charge.

Currently PPS charges fees of \$0.30/page, \$30.00/hour (clerical), \$45.00/hour (administrative), and \$100/hour (attorney review). PPS provides up to 30 minutes of free time. All of these are in line with state averages.

#### **Internal Review**

Next, guided by the administrative directive's assertion that "it is the goal of the school district to provide the public with records at no cost whenever possible," I looked at how those fees are actually assessed.

From February to May of 2017 I prepared cost estimates for 30 requests (out of 110 received). Of those, seven requests required 30 minutes or less to complete. I assessed fees for the remaining 23 requests, for a total of \$10,262.50. To determine how reasonable the 30 minute threshold is, I looked at two potential higher thresholds:

(a) If we only assessed fees after 60 minutes of staff time or \$50.00 in total costs, another five requests would have been provided free of charge. Total fees assessed would be \$10,060.00 (98% of actual)

(b) If we only assessed fees after 4 hours of staff time or \$100.00 in total costs, seven additional requests would have been provided free of charge. Total fees assessed would be \$9,712.50 (95% of actual)

What this shows is that PPS could offer substantially more generous thresholds to requesters (meeting the goal of not charging whenever possible) while still recouping costs for voluminous and complicated requests (which is the statutory purpose of the fee-recovery mechanism in the first place).

Thus, I recommend that PPS amend its policies to reflect a threshold of 90 minutes of staff time or \$100 in costs before fees will be assessed to requesters.

#### **Board Question about Identity of Requesters**

The Board asked if the identity of a requester is relevant when assessing fees, specifically as to an individual versus a news or other organization. The public records law does not specifically address this question:

- ORS 192.440(4)(a) allows public bodies to “establish fees reasonably calculated to reimburse ... the public body’s actual cost of making public records available.”
- ORS 192.440(5) allows public bodies to “furnish copies without charge or at a substantially reduced fee if the custodian determines ... making the record available primarily benefits the general public.”
- The Attorney General’s Public Records Manual (pp18-21) outlines the criteria to consider when weighing the public interest of a request. The identity and purpose of a requester are factors, but must be weighed in balance with other considerations.

*Enclosures:*

- Senate Bill 481 (Engrossed)
- PRR fee analysis – internal
- PRR fee analysis – other public bodies

PRR'S FROM FEB-MAY 2017:  
ESTIMATES PREPARED OF TIME  
AND COST TO COMPLETE

**ACTUAL FEES ASSESSED**

fees only assessed after  
30min

fees only assessed after  
60min or \$50

fees only assessed after  
4hrs or \$100

PRR	HOURS	DOLLARS				
026	0.25	11.25				
079	0.25	11.25				
036	0.33	15.00				
018	0.50	22.50				
032	0.50	22.50				
037	0.50	50.00				
038	0.50	50.00				
064	0.75	33.75	0.75	33.75		
084	0.75	33.75	0.75	33.75		
041	1.00	45.00	1.00	45.00		
101	1.00	45.00	1.00	45.00		
110	1.00	45.00	1.00	45.00		
087	1.00	58.75	1.00	58.75	1.00	58.75
089	1.00	58.75	1.00	58.75	1.00	58.75
088	1.00	72.50	1.00	72.50	1.00	72.50
028	1.50	67.50	1.50	67.50	1.50	67.50
128	1.50	122.50	1.50	122.50	1.50	122.50
051	2.00	90.00	2.00	90.00	2.00	90.00
090	3.00	135.00	3.00	135.00	3.00	135.00
074	3.00	1165.00	3.00	1165.00	3.00	1165.00
062	4.00	180.00	4.00	180.00	4.00	180.00
092	4.00	290.00	4.00	290.00	4.00	290.00
068	6.00	270.00	6.00	270.00	6.00	270.00
077	7.00	315.00	7.00	315.00	7.00	315.00
066	9.00	597.50	9.00	597.50	9.00	597.50
096	10.00	450.00	10.00	450.00	10.00	450.00
109	10.00	450.00	10.00	450.00	10.00	450.00
061	13.50	607.50	13.50	607.50	13.50	607.50
019	50.00	2250.00	50.00	2250.00	50.00	2250.00
095	64.00	2880.00	64.00	2880.00	64.00	2880.00

10,445.00

10,262.50

10,060.00

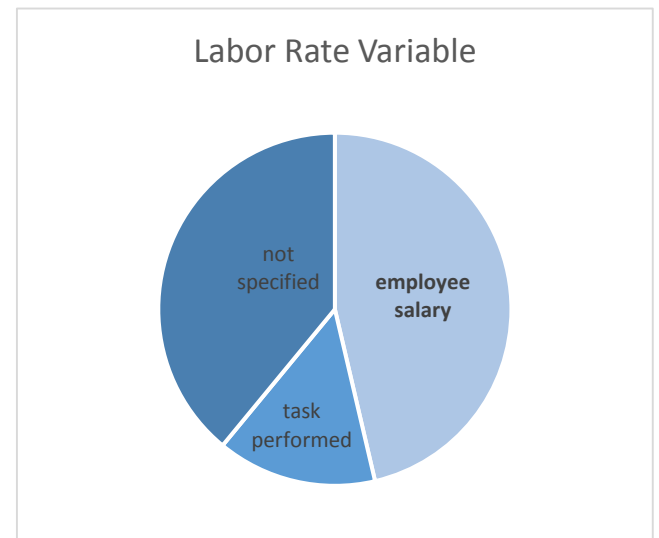
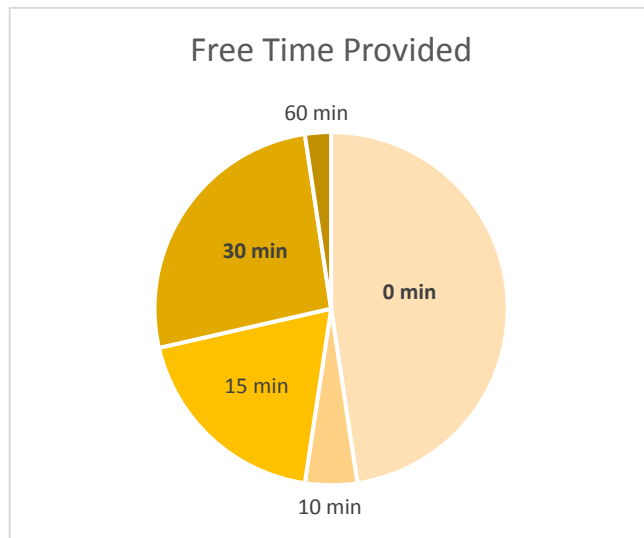
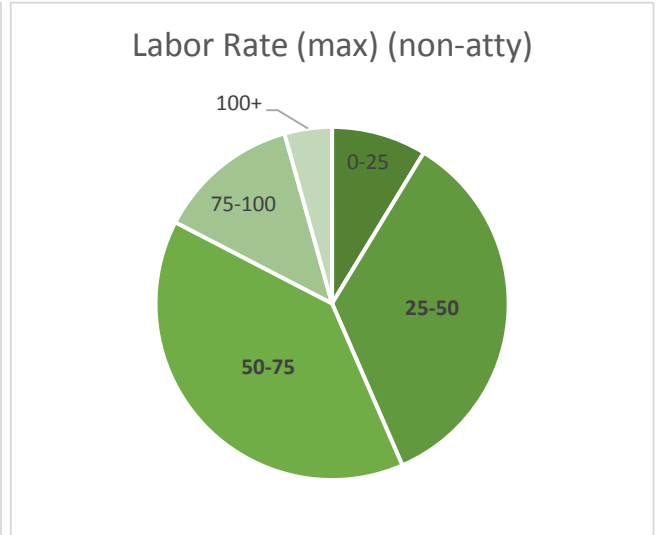
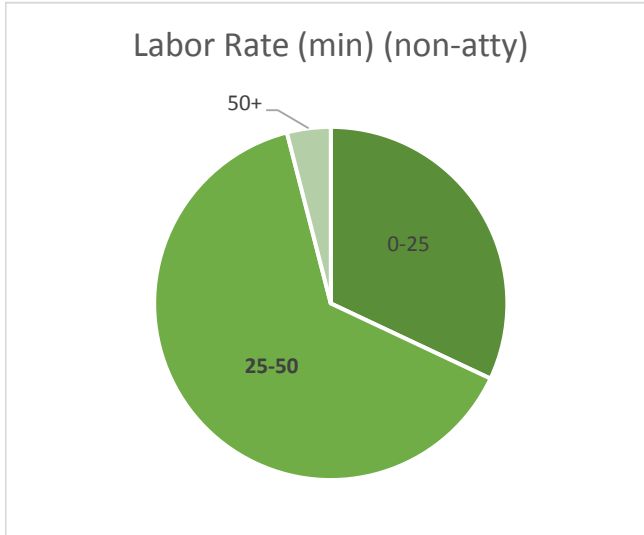
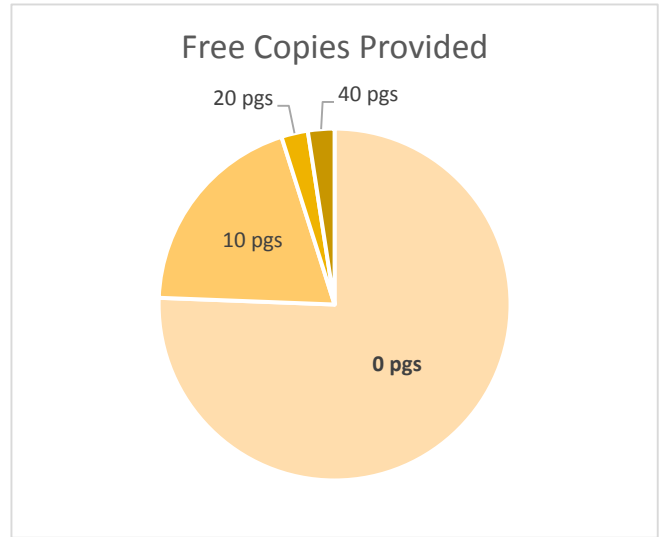
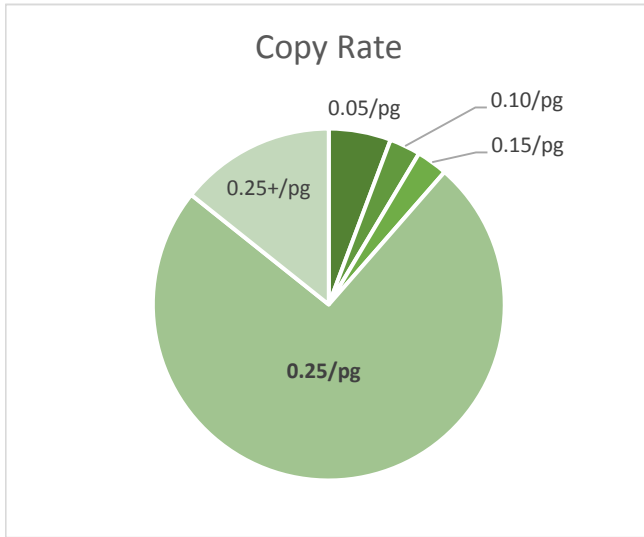
\$ (202.50)  
98%

9,712.50

\$ (550.00)  
95%

fees charged at each threshold  
difference, compared to actual  
percentage charged vs actual

## Public Records: Other Government Agency Fee Analysis \*



\* All data per agency's published fees as of 2/12/2017



**A-Engrossed**  
**Senate Bill 481**

Ordered by the Senate April 12  
Including Senate Amendments dated April 12

Sponsored by Senators BEYER, KRUSE, Representatives HELM, HUFFMAN (at the request of Attorney General Ellen F. Rosenblum) (Presession filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Establishes state policy regarding public access to public records.]* **Defines “business day” for purposes of public records.** Establishes time frames for public body responses to public records requests. Requires Attorney General to maintain catalog of public records law exemptions. Provides protections against liability and privilege waivers resulting from public records disclosures. Clarifies appeal procedures for reviews of public records requests.

**A BILL FOR AN ACT**

1  
2 Relating to public records; creating new provisions; and amending ORS 40.280, 192.410, 192.440 and  
3 287A.350.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 4, 5, 7 and 8 of this 2017 Act are added to and made a part of ORS**  
6 **192.410 to 192.505.**

7 **SECTION 2.** ORS 192.410 is amended to read:

8 192.410. As used in ORS 192.410 to 192.505:

9 **(1) “Business day” means a day other than Saturday, Sunday or a legal holiday and on**  
10 **which at least one paid employee of the public body that received the public records request**  
11 **is scheduled to and does report to work. In the case of a community college district, com-**  
12 **munity college service district, public university, school district or education service district,**  
13 **“business day” does not include any day on which the central administration offices of the**  
14 **district or university are closed.**

15 *[(1)]* **(2) “Custodian” means:**

16 (a) The person described in ORS 7.110 for purposes of court records; or

17 (b) A public body mandated, directly or indirectly, to create, maintain, care for or control a  
18 public record. “Custodian” does not include a public body that has custody of a public record as  
19 an agent of another public body that is the custodian unless the public record is not otherwise  
20 available.

21 *[(2)]* **(3) “Person” includes any natural person, corporation, partnership, firm, association or**  
22 **member or committee of the Legislative Assembly.**

23 *[(3)]* **(4) “Public body” includes every state officer, agency, department, division, bureau, board**  
24 **and commission; every county and city governing body, school district, special district, municipal**  
25 **corporation, and any board, department, commission, council, or agency thereof; and any other**  
26 **public agency of this state.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.



1        [(4)(a)] **(5)(a)** “Public record” includes any writing that contains information relating to the  
2 conduct of the public’s business, including but not limited to court records, mortgages, and deed  
3 records, prepared, owned, used or retained by a public body regardless of physical form or charac-  
4 teristics.

5        (b) “Public record” does not include any writing that does not relate to the conduct of the  
6 public’s business and that is contained on a privately owned computer.

7        [(5)] **(6)** “State agency” means any state officer, department, board, commission or court created  
8 by the Constitution or statutes of this state but does not include the Legislative Assembly or its  
9 members, committees, officers or employees insofar as they are exempt under section 9, Article IV  
10 of the Oregon Constitution.

11        [(6)] **(7)** “Writing” means handwriting, typewriting, printing, photographing and every means of  
12 recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all pa-  
13 pers, maps, files, facsimiles or electronic recordings.

14        **SECTION 3.** ORS 192.440 is amended to read:

15        192.440. (1) **A public body that is** the custodian of any public record that a person has a right  
16 to inspect shall give the person, upon **receipt of a written** request:

17        (a) A copy of the public record if the public record is of a nature permitting copying; or

18        (b) A reasonable opportunity to inspect or copy the public record.

19        [(2) *If a person makes a written request to inspect a public record or to receive a copy of a public*  
20 *record, the public body receiving the request shall respond as soon as practicable and without unrea-*  
21 *sonable delay. The public body may request additional information or clarification from the requester*  
22 *for the purpose of expediting the public body’s response to the request. The response of the public body*  
23 *must acknowledge receipt of the request and must include one of the following:]*

24        [(a) *A statement that the public body does not possess, or is not the custodian of, the public*  
25 *record.*]

26        [(b) *Copies of all requested public records for which the public body does not claim an exemption*  
27 *from disclosure under ORS 192.410 to 192.505.*]

28        [(c) *A statement that the public body is the custodian of at least some of the requested public re-*  
29 *records, an estimate of the time the public body requires before the public records may be inspected or*  
30 *copies of the records will be provided and an estimate of the fees that the requester must pay under*  
31 *subsection (4) of this section as a condition of receiving the public records.*]

32        [(d) *A statement that the public body is the custodian of at least some of the requested public re-*  
33 *records and that an estimate of the time and fees for disclosure of the public records will be provided*  
34 *by the public body within a reasonable time.*]

35        [(e) *A statement that the public body is uncertain whether the public body possesses the public re-*  
36 *cord and that the public body will search for the record and make an appropriate response as soon*  
37 *as practicable.*]

38        [(f) *A statement that state or federal law prohibits the public body from acknowledging whether the*  
39 *record exists or that acknowledging whether the record exists would result in the loss of federal bene-*  
40 *fits or other sanction. A statement under this paragraph must include a citation to the state or federal*  
41 *law relied upon by the public body.*]

42        **(2) If an individual who is identified in a public body’s procedure described in subsection**  
43 **(7)(a) of this section receives a written request to inspect or receive a copy of a public re-**  
44 **cord, the public body shall within five business days after receiving the request acknowledge**  
45 **receipt of the request or complete the public body’s response to the request. An acknowl-**

1 **edgment under this subsection must:**

2 (a) **Confirm that the public body is the custodian of the requested record;**

3 (b) **Inform the requester that the public body is not the custodian of the requested re-**  
4 **cord; or**

5 (c) **Notify the requester that the public body is uncertain whether the public body is the**  
6 **custodian of the requested record.**

7 (3) If the public record is maintained in a machine readable or electronic form, the [*custodian*]  
8 **public body** shall provide a copy of the public record in the form requested, if available. If the  
9 public record is not available in the form requested, the [*custodian*] **public body** shall make the  
10 public record available in the form in which the [*custodian*] **public body** maintains the public record.

11 (4)(a) The public body may establish fees reasonably calculated to reimburse the public body for  
12 the public body's actual cost of making public records available, including costs for summarizing,  
13 compiling or tailoring the public records, either in organization or media, to meet the [*person's*] re-  
14 quest.

15 (b) The public body may include in a fee established under paragraph (a) of this subsection the  
16 cost of time spent by an attorney for the public body in reviewing the public records, redacting  
17 material from the public records or segregating the public records into exempt and nonexempt re-  
18 cords. The public body may not include in a fee established under paragraph (a) of this subsection  
19 the cost of time spent by an attorney for the public body in determining the application of the pro-  
20 visions of ORS 192.410 to 192.505.

21 (c) The public body may not establish a fee greater than \$25 under this section unless the public  
22 body first provides the [*requestor*] **requester** with a written notification of the estimated amount of  
23 the fee and the [*requestor*] **requester** confirms that the [*requestor*] **requester** wants the public body  
24 to proceed with making the public record available.

25 (d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those  
26 filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for fur-  
27 nishing copies, summaries or compilations of the public records are [*those*] **the fees** established by  
28 the Secretary of State by rule[,] under ORS chapter 79 or ORS 80.100 to 80.130.

29 (5) The custodian of [*any*] **a** public record may furnish copies without charge or at a substan-  
30 tially reduced fee if the custodian determines that the waiver or reduction of fees is in the public  
31 interest because making the record available primarily benefits the general public.

32 (6) A [*person*] **requester** who believes that there has been an unreasonable denial of a fee  
33 waiver or fee reduction may petition the Attorney General or the district attorney in the same  
34 manner as a [*person*] **requester who** petitions when inspection of a public record is denied under  
35 ORS 192.410 to 192.505. The Attorney General, the district attorney and the court have the same  
36 authority in instances when a fee waiver or reduction is denied as [*it has*] when inspection of a  
37 public record is denied.

38 (7) A public body shall make available to the public a written procedure for making public [*re-*  
39 *cord*] **records** requests that includes:

40 (a) The name of one or more [*persons*] **individuals within the public body** to whom public [*re-*  
41 *cord*] **records** requests may be sent, with addresses; and

42 (b) The amounts of and the manner of calculating fees that the public body charges for re-  
43 sponding to requests for public records.

44 (8) This section does not apply to signatures of individuals submitted under ORS chapter 247 for  
45 purposes of registering to vote as provided in ORS 247.973.

1       **SECTION 4.** (1) A public body shall complete its response to a written public records re-  
2       quest that is received by an individual identified in the public body's procedure described in  
3       ORS 192.440 as soon as practicable and without unreasonable delay.

4       (2) A public body's response to a public records request is complete when the public body:

5       (a) Provides access to or copies of all requested records within the possession or custody  
6       of the public body that the public body does not assert are exempt from public disclosure,  
7       or explains where the records are already publicly available;

8       (b) Asserts any exemptions from disclosure that the public body believes apply to any  
9       requested records and, if the public body cites ORS 192.502 (8) or (9), identifies the state or  
10      federal law that the public body relied on in asserting the exemptions;

11      (c) Complies with ORS 192.505;

12      (d) To the extent that the public body is not the custodian of records that have been re-  
13      quested, provides a written statement to that effect;

14      (e) To the extent that state or federal law prohibits the public body from acknowledging  
15      whether any requested record exists or that acknowledging whether a requested record ex-  
16      ists would result in the loss of federal benefits or imposition of another sanction, provides  
17      a written statement to that effect, citing the state or federal law that the public body relies  
18      on, unless the written statement itself would violate state or federal law; and

19      (f) If the public body asserts that one or more requested records are exempt from public  
20      disclosure, includes a statement that the requester may seek review of the public body's  
21      determination pursuant to ORS 192.450, 192.460, 192.465, 192.470, 192.480 and 192.490.

22      (3)(a) If a public body has informed a requester of a fee permitted under ORS 192.440 (4),  
23      the obligation of the public body to complete its response to the request is suspended until  
24      the requester has paid the fee, the fee has been waived by the public body pursuant to ORS  
25      192.440 (5) or the fee otherwise has been ordered waived.

26      (b) If the requester fails to pay the fee within 60 days of the date on which the public  
27      body informed the requester of the fee, or fails to pay the fee within 60 days of the date on  
28      which the public body informed the requester of the denial of the fee waiver, the public body  
29      shall close the request.

30      (4)(a) A public body may request additional information or clarification from a requester  
31      of public records for the purpose of expediting the public body's response to the request. If  
32      the public body has requested additional information or clarification in good faith, the public  
33      body's obligation to further complete its response to the request is suspended until the re-  
34      quester provides the requested information or clarification or affirmatively declines to pro-  
35      vide that information or clarification.

36      (b) If the requester fails to respond within 60 days to a good faith request from the public  
37      body for information or clarification, the public body shall close the request.

38      (5) As soon as reasonably possible but not later than 10 business days after the date by  
39      which a public body is required to acknowledge receipt of the request under ORS 192.440, a  
40      public body shall:

41      (a) Complete its response to the public records request; or

42      (b) Provide a written statement that the public body is still processing the request and  
43      a reasonable estimated date by which the public body expects to complete its response based  
44      on the information currently available.

45      (6) The time periods established by ORS 192.440 and subsection (5) of this section do not

1 apply to a public body if compliance would be impracticable because:

2 (a) The staff or volunteers necessary to complete a response to the public records re-  
3 quest are unavailable;

4 (b) Compliance would demonstrably impede the public body's ability to perform other  
5 necessary services; or

6 (c) Of the volume of public records requests being simultaneously processed by the public  
7 body.

8 (7) For purposes of this section, staff members or volunteers who are on leave or are not  
9 scheduled to work are considered to be unavailable.

10 (8) A public body that cannot comply with the time periods established by ORS 192.440  
11 and subsection (5) of this section for a reason listed in subsection (6) of this section shall,  
12 as soon as practicable and without unreasonable delay, acknowledge a public records request  
13 and complete the response to the request.

14 **SECTION 5.** (1) A person who has submitted a written public records request in compli-  
15 ance with a public body's policy may seek review of the following, in the same manner as a  
16 person petitions when inspection of a public record is denied under ORS 192.410 to 192.505:

17 (a) The failure of a public body to provide the response required by section 4 of this 2017  
18 Act within the prescribed period. A failure of the public body to timely respond shall be  
19 treated as a denial of the request unless the public body demonstrates that compliance was  
20 not required under section 4 of this 2017 Act.

21 (b) An estimate of time provided by a public body pursuant to section 4 of this 2017 Act,  
22 if the person believes that the estimated time frame for the response is unreasonably long  
23 and will result in undue delay of disclosure.

24 (c) Any other instance in which the person believes that the public body has failed to  
25 comply with section 4 of this 2017 Act.

26 (2) Except as provided in subsection (3) of this section, the Attorney General, the district  
27 attorney and the court have the same authority with respect to petitions under this section  
28 as when inspection of a public record is denied.

29 (3) If the Attorney General, district attorney or a court grants a petition filed under this  
30 section, the order granting the petition may require disclosure of nonexempt material re-  
31 sponsive to the request within seven days, or within any other period that the Attorney  
32 General, district attorney or court concludes is appropriate to comply with section 4 of this  
33 2017 Act.

34 **SECTION 6.** Sections 4 and 5 of this 2017 Act and the amendments to ORS 192.410 and  
35 192.440 by sections 2 and 3 of this 2017 Act apply to public records requests made on or after  
36 the effective date of this 2017 Act.

37 **SECTION 7.** (1) The Attorney General shall maintain and regularly update a catalog of  
38 exemptions created by Oregon statute from the disclosure requirements of ORS 192.410 to  
39 192.505. The catalog must be as comprehensive as reasonably possible and must be freely  
40 available to the public in an electronic format that facilitates sorting and searching of the  
41 catalog.

42 (2) The catalog required by subsection (1) of this section must include the following in-  
43 formation for each exemption:

44 (a) A citation to the Oregon statute or statutes creating the exemption from the disclo-  
45 sure requirements of ORS 192.410 to 192.505;

1       **(b) The relevant text of each statute creating the exemption;**

2       **(c) If the exemption has been construed by a decision of the Oregon Supreme Court or**  
3 **Court of Appeals, a citation to that decision;**

4       **(d) To the extent that the exemption is specific to a particular public body or particular**  
5 **types of public bodies, a description of the public body or bodies to which the exemption re-**  
6 **lates; and**

7       **(e) Additional information as the Attorney General deems appropriate.**

8       **(3) To help ensure that the catalog required by subsection (1) of this section is as com-**  
9 **prehensive as possible:**

10       **(a) The Legislative Counsel shall provide the Attorney General with an electronic copy**  
11 **of any Act passed by the Legislative Assembly that, in the judgment of the Legislative**  
12 **Counsel, creates an exemption from the disclosure requirements of ORS 192.410 to 192.505;**  
13 **and**

14       **(b) When a district attorney issues an order pursuant to ORS 192.460, the district attor-**  
15 **ney shall send the Attorney General an electronic copy of that order.**

16       **(4) The purpose of the catalog required by subsection (1) of this section is to assist public**  
17 **officials and members of the public in ascertaining what information is exempt from the**  
18 **public disclosure requirements of ORS 192.410 to 192.505. The catalog is not intended to pro-**  
19 **vide legal advice to public bodies or to members of the public.**

20       **(5) A public body may assert that an Oregon statute exempts a public record in the**  
21 **custody of the public body from disclosure even if that statute is not listed in the catalog**  
22 **or the catalog does not include that public body in the catalog's description of the public**  
23 **bodies to which that exemption applies.**

24       **SECTION 8.** **(1) A public body that, acting in good faith, discloses a public record in re-**  
25 **sponse to a request for public records is not liable for any loss or damages based on the**  
26 **disclosure unless the disclosure is affirmatively prohibited by state or federal law or by a**  
27 **court order applicable to the public body. Nothing in this subsection shall be interpreted to**  
28 **create liability on the part of a public body, or create a cause of action against a public body,**  
29 **based on the disclosure of a public record.**

30       **(2) A public body that discloses any information or record in response to a written re-**  
31 **quest for public records under ORS 192.410 to 192.505 that is privileged under ORS 40.225 to**  
32 **40.295 does not waive its right to assert the applicable privilege to prevent the introduction**  
33 **of the information or record as evidence pursuant to ORS 40.225 to 40.295.**

34       **SECTION 9.** **ORS 40.280 is amended to read:**

35       40.280. A person upon whom ORS 40.225 to 40.295 confer a privilege against disclosure of the  
36 confidential matter or communication waives the privilege if the person or the person's predecessor  
37 while holder of the privilege voluntarily discloses or consents to disclosure of any significant part  
38 of the matter or communication. This section does not apply if the disclosure is itself a privileged  
39 communication. Voluntary disclosure does not occur with the mere commencement of litigation or,  
40 in the case of a deposition taken for the purpose of perpetuating testimony, until the offering of the  
41 deposition as evidence. Voluntary disclosure does not occur when representatives of the news media  
42 are allowed to attend executive sessions of the governing body of a public body as provided in ORS  
43 192.660 (4), or when representatives of the news media disclose information after the governing body  
44 has prohibited disclosure of the information under ORS 192.660 (4). **Voluntary disclosure does not**  
45 **occur when a public body, as defined in ORS 192.410, discloses information or records in re-**

1 **sponse to a written request for public records made under ORS 192.410 to 192.505.** Voluntary  
2 disclosure does occur, as to psychotherapists in the case of a mental or emotional condition and  
3 physicians in the case of a physical condition upon the holder's offering of any person as a witness  
4 who testifies as to the condition.

5 **SECTION 10.** ORS 287A.350 is amended to read:

6 287A.350. The records of registered bond ownership, whether maintained by a public body or  
7 otherwise, are not public records within the meaning of ORS 192.410 [(4)].

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