

Title: Public Records Requests -
Guidance for Responding
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Eugene Rural Fire Protection District #1

Public Records Requests - Guidance for Responding

Cooperative, collegial response. Oregon's Public Records Advocate encourages districts to approach public records requests with an attitude of collaborative service, and our district intends to maintain a cooperative and collegial approach to requests.

This document is not a binding policy of the District. It is intended only as guidance.

Changes in the law. In its 2017 session, the Oregon legislature passed new laws calling for increased transparency in governing bodies. This has prompted the Special Districts Association of Oregon (SDAO) to offer guidance to special districts like ours regarding requests for public records. It has also made obsolete any handbooks and other guidance written before 2017.

Responsible officer. The Vice President of the board will be responsible for responding to public requests, with help or substitution by other board members as needed.

Public Records Policy. The District's Public Records Policy was adopted by the Board on June 24, 2020.

The Oregon Attorney General's Public Records and Meetings Manual 2019 can be found at <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual>. We can rely on it for guidance in responding to a request for public records. In this document, we will refer to this manual as the AG's Manual.

Request for information. If the District receives an inquiry about how to submit a public records request, or an oral request for public records, we should respond immediately by sending our Public Records Policy to the person making the inquiry. Our board member should carefully review our Public Records Policy, these Procedures for Responding, and especially the Attorney General's Public Records and Meetings Manual 2019 to prepare for the next steps.

When we receive a request for public records, time is of the essence. Once the District receives a written request for public records, Oregon law requires that we acknowledge the request **within five business days**, including the information described in the AG’s Manual, Section I.D.3, “Acknowledging a Request,” and estimating the cost of providing the records requested, using the fees listed in our Public Records Policy. If the cost will exceed \$25.00, we should ask the requester whether they want us to proceed, and we should require payment before we take steps to complete the request. The AG’s Manual contains a sample form for this acknowledgment in its Appendix B.

Completing the request. In addition, the law requires that we *complete* the request as soon as practicable, and certainly **within 15 business days**. Appendix B in the AG’s Manual contains sample forms such as “Sample Response Completing Public Records Request,” to be sent as a cover letter when sending the requested documents, and forms for certifying true copies of paper and electronic documents.

Tips from an article by Mark Wolf, Attorney, published by SDAO in January, 2018, when Mark worked at Local Government Law Group. These take into account the 2017 changes in the law.

“After acknowledging the request and within an additional 10 business days (for a total of 15 business days after receiving the request) the public body must:

- Complete the request, or
- Provide a written statement that the public body is still processing the request and provide a reasonable estimated completion date.

“Complete means the public body has:

- Provided access to or copies of all non-exempt requested records,
- Asserted any exemptions to disclosure,
- Complied with ORS 192.505 - separate exempt from non-exempt material and make non-exempt material available,
- Provided written statement that the public body is not the custodian of record,
- Provided a statement that federal or state law prohibits the public body from acknowledging whether any requested record exists, AND
- Told the requester appeals rights if exemptions were asserted.

“Other changes [to Oregon law]:

- The shot clock pauses when: (1) the public body tells the requester a fee is due to process the request (once paid or waived, the clock resumes), or (2) the public body requests additional information or clarification for the purpose of expediting the public body's response (clock starts once requester provides this information or affirmatively declines to provide it).
- The time limits do not apply if: (1) necessary staff to complete the request is unavailable, (2) processing the request would impede other necessary services, or (3) the volume of

requests is too large. However, the public body must still acknowledge and complete the request as soon as practicable and without unreasonable delay in these situations.

- The public body shall close the request after 60 days if the requester fails to pay fees due or fails to respond to a request for information or clarification.

“Best practices:

- Ensure you have a written policy (if not, create one) available to the public and specify the designee who will process the requests.
- Require all requests to be in writing.
- Include a list of records available online on the same site or form that explains the record request policy - this may help reduce the overall requests received.
- Make sure you follow all time deadlines.
- Call your attorney to ensure your policy updates comply with the new law or if you have any questions regarding these changes in the law.”

END OF ARTICLE

This “Guidance” document submitted by Corlies Delf, Secretary
Adopted by the Board of Directors June 24, 2020