

**MEETINGS AND RECORDS
(Chapter 8)**

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OREGON PUBLIC MEETINGS LAW

The purpose of the Oregon Meetings Law is to assure that meetings of public bodies are open to the public, so the public will know of the activities and actions of its public officials. The key requirements of the law are to hold meetings that are open to the public unless an executive session is authorized, to give notice of meetings, and to take minutes. In addition, there are requirements regarding location, voting, and accessibility for disabled persons. All of these requirements are discussed in Oregon Revised Statute 192.610 to 192.690.

What is a Public Meeting?

A meeting is a convening of a quorum of the governing body of a public body for the purpose of deciding or deliberating upon a public issue. Unless the following criteria are met, the meeting is not a public meeting, and the open meetings law does not apply:

- If less than a quorum of a board meets and discusses a public issue, it is not a public meeting.
- If a quorum of the board meets for a reason other than deliberation or decision on a public issue (e.g., a party, a seminar, a reception, etc.) it is not a public meeting.
- If a quorum meets for a reason other than deliberation or decision on a public issue, but then engages in such discussion, the meeting becomes a public meeting and would be unlawful unless proper notice had been given.

An advisory body, subcommittee, task force, or other official group that has authority to make recommendations to a public body on policy or administration is also required to comply with public meetings law.

A staff meeting is not covered under Public Meetings Law because it does not require a quorum, and because staff simply makes recommendations to the board which is the policy making body. If, however, a staff meeting includes enough board members as to constitute a quorum, then it must be open to the public.

Public Meetings Law is not a “public participation law.” The right of the public to attend meetings does not include the right to participate by giving testimony or comment. However, the public must be allowed to give comment on employment of a public officer or the standards to be used in hiring a chief executive officer.

PUBLIC NOTICE

The law requires that public notice be given of the time and place of meetings. This includes regular, special, and emergency meetings and workshops, and also includes meetings of subcommittees and advisory committees established by the governing body.

- Notices must be reasonably calculated to give actual notice to interested persons, including news media that have requested notice.
- The same notice must be given if a meeting is to only include an executive session. Any notice of an executive session must also include the specific statutory provision authorizing the executive session. If a regular, special, or emergency meeting is to be held which will include an executive session, the notice of executive session should be included in the notice along with the statutory authority. (See section on Executive Sessions for statutory authority.)

- Notice must include a list of the principal subjects anticipated to be considered at the meeting. The agenda does not need to go into detail about subjects scheduled for discussion but should be sufficiently descriptive so that interested persons will have an accurate picture of the anticipated agenda topics.
- The law does not require that every proposed item of business be described in the notice, but rather a reasonable effort to inform the public of the nature of the more important issues to be considered. Additional subjects may be considered at the meeting, even though not included in the notice.
- Paid display advertising is not required, and the governing body does not have a duty to be absolutely certain that the notice is published.

Regularly Scheduled Meetings: Press re-leases should be issued to:

- *Wire Service:* Associated Press and United Press International.
- *Local Media Representatives:* If the meeting involves a local matter, then the notice should be sent to local media.
- *Mailing Lists:* Districts maintaining mailing lists of persons or groups for notice of public meetings should send notice to the persons on the list.
- *Interested Persons:* If a district is aware of persons interested in receiving notice of a meeting, these persons should be notified.
- *Notice Boards:* Some smaller communities have a designated area or bulletin board for posting notices. Governing bodies may want to post notices of meetings in such areas.

Special Meetings: Special meetings require at least 24 hours notice. Such notice should include a press release or telephone call to media, particularly media that has requested prior notice. Special meeting notice should also include telephone, letter, or fax notice to other interested parties.

Emergency Meetings: Emergency meetings may be held on less than 24 hours notice. An actual emergency must exist, and the minutes must describe the emergency, which justifies less than 24 hours notice. Notice of an emergency meeting must be “appropriate to the circumstances,” which should at least include a reasonable attempt to contact the media and other known interested persons.

- An actual emergency on one item does not permit consideration of other items at the emergency meeting.
- Work schedule conflicts or inconvenience of board members is not a justification for an emergency meeting.

Notice of Ordinances: If an ordinance is to be considered, ORS 198.540 requires that the meeting agenda be published between 4 and 10 days before the meeting and that it be posted in three places 10 days before the meeting.

MEETING LOCATIONS

The governing body is responsible to assure that there is adequate room for public attendance. Unexpected overflow crowds need not be accommodated, but reasonable efforts should be made to allow unexpected crowds to attend.

- To the extent possible, every public meeting (not including executive sessions) should allow the opportunity to allow participation via telephone, video or other electronic or virtual means. Additionally, to the extent public comment is allowed, the governing body must make effort to allow members of the public to offer that testimony in a virtual format. To the extent written comments are allowed, the governing body should take steps to allow the comments to be considered in a timely manner.
- Meetings must be held within the geographic boundaries of the district, at the district's administrative headquarters, or at any other nearest practical location. Emergency meetings and training sessions are not subject to those alternative requirements.
- Public meetings may be held in private places, such as restaurants or residences, as long as adequate notice of the location is given so that interested persons may attend, and accommodations can be made for public attendance.
- Meetings may not be held where discrimination on the basis of race, creed, color, sex, age, national origin, or disability is practiced.
- Public meetings must be held in places accessible to individuals with mobility and other impairments, and a good faith effort to provide needed interpreters for hearing-impaired persons needs to be made. A hearing-impaired person requesting an interpreter must give the governing body at least 48 hours notice.

PUBLIC ATTENDANCE AND PARTICIPATION

The Public Meetings Law requires that attendance be allowed, but not participation by the public. Public participation or input can be disallowed on all but the following three issues:

- Employment of a public officer.
- Determination of standards to be used in hiring a chief executive officer.
- Determination of standards to be used in evaluating the employment-related performance of a chief executive officer.

Control of Meetings

The presiding officer has the inherent authority to keep order and impose reasonable restrictions necessary for the orderly and efficient conduct of a meeting. Unless the board decides otherwise, the presiding officer may regulate or disallow public input, may limit public input to relevant points, and may establish time limits for such input. Persons who fail to comply with such reasonable regulations or who otherwise disturb the meeting may be asked to leave, and upon failure to do so, may be treated as a trespasser.

- Members of the public cannot be prohibited from unobtrusively recording public meetings.
- Smoking is banned at public meetings at meeting places that are rented, leased, or owned by the district. The presiding officer should make an announcement at the beginning of each meeting to remind participants that smoking is not allowed.

Voting

All official actions by governing bodies must be taken by public vote of the governing body, and the results of such vote, including how each board member voted on each issue, must be covered in the minutes. Secret ballots are prohibited. Failure to record a vote is not grounds to reverse that decision without a showing of intentional manipulation of the voting.

MINUTES AND RECORD KEEPING

Written minutes must be taken of all meetings. Minutes need not be verbatim transcripts, nor are tape recordings required. Minutes, in whatever form, must give a true reflection of matters discussed at the meeting and the views of the participants. Governing bodies must prepare minutes and have them available to the public within a reasonable time after the meeting. Minutes must be made available to the public even though not formally approved by the board.

Any tape recordings or written minutes of public board meetings or executive sessions shall be retained by the district until such time as their disposal is authorized by rule or specific authorization of the State Archivist pursuant to ORS 192.105. It is recommended that minutes be retained forever. Minutes of executive sessions may be kept in the form of a tape recording rather than written minutes, and such minutes are not public records.

Written minutes must include:

- Members present.
- Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition.
- Results of all votes taken unless the district board has more than 25 members present.
- The substance of any discussion of any matter.
- A reference to any document discussed at the meeting.

EXECUTIVE SESSIONS

District boards may meet in executive (closed) session only under certain, statutorily authorized situations, and there are civil penalties for violation of executive session laws. The following are among the permissible purposes for executive sessions:

- **Employment of Public Officers, Employees, and Agents**
A meeting to discuss the specific hiring of a public officer, employee, or staff member. This provision applies only if the vacancy for the position has been advertised, regular procedures for hiring have been adopted, and, for a public officer, the public has the opportunity to comment on the employment. [ORS 192.660(2)(a)]
- **Discipline of Public Officers and Employees**
A meeting called to discuss the discipline or termination of a public officer, employee, or staff member, or hear complaints or charges brought against that person, unless the person asks for an open hearing. [ORS 192.660(2)(b)]
- **Public Hospital Medical Staff**

Authorized for considering matters pertaining to the function of the medical staff licensed under ORS chapter 441. Meetings of medical peer review committees held under ORS 441.005 are also exempt from Public Meetings Law. [ORS 192.660(2)(c)]

- **Labor Negotiator Consultations**
A meeting for the purpose of conducting deliberations with persons designated by the governing body to carry on labor negotiations. The media may be excluded from the executive session. [ORS 192.660(2)(d)]
- **Real Property Transactions**
A meeting to discuss or negotiate on a property transaction. May not include discussion of a public body's long-term space needs or general policies concerning lease sites. [ORS 192.660(2)(e)]
- **Exempt Public Records**
If any of the records or information considered exempt from Public Records Law is discussed at a meeting, then the district may hold an executive session. [ORS 192.660(2)(f)]
- **Trade Negotiations**
To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. [ORS 192.660(2)(g)]
- **Legal Counsel**
A meeting may be held in executive session for the purpose of consulting with legal counsel concerning the legal rights and duties of current litigation or litigation likely to be filed. The governing body must bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation. [ORS 192.660(2)(h)]
- **Performance Evaluations**
A meeting to review the performance of a chief executive officer, other officers, employees, and staff members of the district. An executive session may not be held if the person whose performance is being reviewed and evaluated requests an "open hearing." [ORS 192.660(2)(i)]
- **Public Investments**
An executive session may be called to negotiate with private persons or businesses regarding proposed acquisition, exchange, or liquidation of public investments. [ORS 192.660(2)(j)]
- **Health Professional Licensee Investigation**
A meeting to consider information obtained as part of an investigation or licensee or applicant conduct. Confidential information must be protected even when the board convenes in public session for the purposes of deciding whether or not to issue a notice of intent to impose a disciplinary sanction on a licensee or to deny or approve an application for licensure. [ORS 192.660(2)(k)]
- **Labor Negotiations**
Labor negotiations can be held in an open meeting unless both sides of the negotiations request that they be held in executive session. Such executive sessions are not subject to

the notification requirements of ORS 192.640. This subsection allows governing bodies to engage in labor negotiations with employees' representatives. [ORS 192.660(2)(n)].

Executive sessions may be called during regular meetings, special, or emergency meetings, for which proper notice has been given. Also, a meeting may be called which is only an executive session. The presiding officer must first announce the statutory authority for the executive session before going into session.

The media cannot be excluded from an executive session, except for sessions regarding labor negotiations. Media representatives in attendance at an executive session should be instructed not to report or disclose matters discussed at the session; if such instruction is not given, the media may disclose the discussions. The presiding officer may prohibit the media from recording an executive session. The media includes newsgathering representatives (i.e., reporters) of news media that ordinarily reports activities of the public body, or ordinarily report matters of the nature under consideration by the public body.

Even though certain persons can be excluded from executive sessions, it does not restrict the authority of the governing body to invite persons not part of the board to attend executive sessions.

All final decisions must be made outside of the executive session. The public must have a chance to be aware of the final decision. A vote of the district board relating to information discussed in the executive session can satisfy this requirement. However, executive sessions may not be held for the purpose of taking any final action or making any final decision.

ENFORCEMENT

Enforcement of the Public Meetings Law may be by litigation brought by an interested person to force compliance or to determine the applicability of the law to particular meetings. A decision made in a meeting that violates the Public Meeting Law may be ratified at a subsequent meeting that complies with the law, and a recommendation made by a committee in violation of the Public Meetings Law can be ratified by the board in accepting the recommendation at an open meeting. Normally, courts will not void a decision made at an improper public meeting without a finding of intentional conduct. In addition, the Oregon Government Ethics Commission may consider complaints against public officials for violation of executive session laws and may impose civil penalties of up to \$1,000.

OREGON PUBLIC RECORDS LAW

The purpose of Public Records Law is to assure that all records of a public agency, with some exceptions, are available for inspection and copying by the public.

- Every person has a right to inspect any non-exempt public records of a public body in the state. The intent, identity, motivations, or need of the person requesting the records are irrelevant.
- Public Records Law applies to all public bodies but may also apply to private bodies established by public agencies or other groups which are the functional equivalent of a public body.

What is a Public Record?

Public Records Laws apply to all government records, no matter what kind. As defined by the Oregon Statutes, public records are any information that is prepared, owned, used, or retained by a state agency or political subdivision that relates to an activity, transaction or function of a state agency or political subdivision; and that is necessary to satisfy the fiscal, legal, administrative, or historical policies, requirements or needs of the state agency or political subdivision.

Public agencies are required to maintain a public record without regard to the technology or medium used to create or communicate the record. Public records can be in the form of paper, tape, film, photographs, discs, pictures, sounds, symbols, or any other physical medium used to record information. Many public bodies use electronic mail (e-mail) for communications. E-mail is a public record. Even after individual e-mail messages are “deleted” from a computer, the messages generally continue to exist on computer back-up tapes, which are also public records. As with any public record, a public body must make all nonexempt e-mail available for inspection and copying regardless of its storage location.

Public Records Laws do not require public bodies to create public records. For example, if a district has information stored in a computer and the public requests that it be provided with a copy of the information in a different form than the district stores the information, the district is not required to manipulate the information to create the requested document. Alternate forms must be provided if the person is asking because of a disability, unless to do so would impose an undue financial or administrative burden on the district.

If an outside body, such as a private contractor, prepares a document for a district that contains information that can be considered public information, the records are considered public and fall within Public Records Laws. However, a record created by a private organization or individual does not become a public record simply because it is reviewed by a public body. For example, sample materials prepared and owned by a private company are not considered public records when they are simply reviewed by the public body and no decisions to use the materials have been made.

OBTAINING PUBLIC RECORDS

Districts must ensure that their records are made accessible to the public. A written public records policy must be made available to the public listing the individual responsible for receiving the request, cost, and how costs are determined.

A public entity must provide, as appropriate:

- A statement that it does not possess, or is not the custodian of, the record.
- Copies of all requested public records to which an exemption does not apply.
- A statement that it is the custodian of at least some of the requested records, an estimate of the time the public body requires before inspection can be made or copies of the records provided, and an estimate of the fees to be paid as a condition of receiving the records.
- A statement that it is the custodian of at least some of the requested records and that an estimate of the time and fees for disclosure of the public records will be provided within a reasonable time.

- A statement that it is uncertain whether it possesses the record and that it will search for the record and make an appropriate response as soon as practicable.
- A statement that state or federal law prohibits it from acknowledging whether the record exists, or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction and citing the applicable law.

Timeline for Response

The district must acknowledge receipt within five business days unless the request is fulfilled before then. After acknowledging the request, the district has 15 business days to respond to the request. If the district is unable to meet the 15-day deadline, the district must notify the requestor, in writing of the delay and provide a reasonable estimated date of completion. The timeline for response is suspended if the district has provided a fee estimate and are waiting to receive payment, or the district requests additional information to clarify the request. The request for clarification must be done in good faith and not for the purpose of delay. There are some limited exceptions to the timeline, such as limited staff or other requests, but they are very narrowly construed, and districts should consult with SDAO or their own legal counsel in advance of relying on the exemptions.

Copying

If the records can be copied, then it is the responsibility of the district to furnish a copy of the records to the requester. Private individuals also have the right to make their own copies, using their own equipment, or inspect copies of the records. The district has the right to protect the records if it feels that the method used to copy the records will cause them damage.

Records must be available during usual business hours to persons wishing to either review or copy the records. The requester of the records is obligated to come to the district to get the records. The district need not deliver any records.

Fees

Districts are allowed to charge a fee for copying or locating records. The fee must be reasonable and reflect the actual cost of making the records available. Fees must be limited to no more than \$25.00 unless the requestor is provided with a written notification of the estimated amount of the fee and the requestor confirms that he/she wants the public body to proceed. Services that are permissible to charge a fee for include:

- The time spent by staff in locating the requested records.
- Reviewing records in order to delete exempt material.
- Supervising a person's inspection of original documents in order to protect the records.
- Copying records.
- Certifying documents as true copies.
- Sending records by special methods, such as express mail.

Fees should be consistent and included in the official policies of the district. A per-page charge is recommended that includes the expenses involved with handling and providing access to the records.

The requestor of the records does have the right to petition for a waiver of the fee if the records are of "public interest." If the records simply relate to a personal matter, such as seeking information relating to defense in a criminal matter, then the request for a waiver can be denied.

PUBLIC RECORDS EXEMPT FROM DISCLOSURE

If a district denies a request for a public record, it has the burden to prove that the record is exempt from disclosure. If the record is exempt from disclosure, the district is not required to provide the record. In many instances, the district has the authority to voluntarily provide records, even if they are exempt from disclosure. If a district does voluntarily provide an exempt record to an individual, it does not give up the right to deny access of the record to another individual in the future.

The district records officer should use the following steps when deciding whether to honor a request for the district's records:

- Is there any good reason not to disclose the records?
- If the answer is yes, is the record exempt from disclosure?
- If there is any question as to whether the record is exempt, and the district does not wish to release the record, then legal counsel should be consulted.

An individual may submit a written request to a public body not to disclose a specified public record indicating the home address or personal telephone number of the individual. A public body shall not disclose the specified public record if the individual demonstrates to the satisfaction of the public body that the personal safety of the individual or the personal safety of a family member residing with the individual is in danger if the home address or personal tele-phone number remains available for public inspection.

Documents that are exempt from disclosure unless "the public interest requires disclosure in the particular instance," include the following:

- **Public Records Pertaining to Litigation**
Litigation records in which the district is part of the complaint or which the district believes that it is likely to become part of the complaint. This exemption does not apply to litigation which has been concluded. [ORS 192.501(1)]
- **Trade Secrets**
The information must not be patented, it must only be known to a limited number of persons, it must have the potential of deriving economic value, and it must give its users the chance to obtain a business advantage over competitors not having the information. [ORS 192.501(2)]
- **Criminal Investigatory Material**
Information compiled in a criminal investigation that if divulged may deprive a person of a fair trial, constitute an invasion of privacy, disclose the identity of a confidential source, disclose investigation techniques, or endanger the safety of law enforcement officers. [ORS 192.501(3)]

- **Tests and Examination Material**
Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination. [ORS 192.501(4)]
- **Business Records Required to be Submitted**
Records which will identify a particular business and its production levels. [ORS 192.501(5)]
- **Real Estate Appraisal Information**
Information relating to the appraisal of real estate prior to its acquisition. [ORS 192.501(6)]
- **Employee Representation Cards**
The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections. [ORS 192.501(7)]
- **Civil Rights Investigation Material**
Information relating to complaints of discrimination in housing, places of public accommodation, or private vocational, professional or trade schools. However, the actual complaint is not exempt. [ORS 192.501(8)]
- **Unfair Labor Practices Complaints**
Information which relates to unfair labor practice investigations and complaints before the Employment Relations Board. The complaint itself would not be exempt from disclosure. [ORS 192.501(9)]
- **Debt Collection Agency Investigation Records**
Records, reports, and other information received or compiled by the Director of Consumer and Business Services concerning debt collection. [ORS 192.501(10)]
- **Archaeological Site Information**
Information concerning the location of archaeological sites or objects, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. [ORS 192.501(11)]
- **Personnel Discipline Actions**
A personnel discipline action, or materials or documents supporting that action, if a sanction was imposed. This exemption does not apply when an employee of a public body resigns during an employer investigation or in lieu of disciplinary action. [ORS 192.501(12)]
- **Information About Threatened or Endangered Species**
Information regarding the habitat, location, or population of any threatened or endangered species, if the requestor of the records will use the information to further endanger the species. [ORS 192.501(13)]
- **Faculty Research**
Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented. [ORS 192.501(14)]
- **Computer Programs for the Use of Public Bodies**
Computer programs developed or purchased by or for a public body for its own use, not including the original data or the mathematical formulas used to manipulate the data. [ORS 192.501(15)]
- **Agricultural Producer Indebtedness Mediation Data**

Data and information provided by participants to mediation for agricultural producers in danger of foreclosure. [ORS 192.501(16)]

- **Unsafe Workplace Investigation Materials**
Investigatory information relating to complaints of violations of laws governing workplace safety. It does not cover the complaint itself but provides for confidentiality of the identity of the employee making the complaint. [ORS 192.501(17)]
- **Public Safety Plans**
Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared and used by a law enforcement agency, if public disclosure would endanger the life or physical safety of a citizen or law enforcement officer or jeopardize the law enforcement activity involved. [ORS 192.501(18)]
- **Telecommunications Utility Audits**
An external or internal audit or audit report pertaining to a telecommunications carrier. [ORS 192.501(19)]
- **Residence Address of Elector**
Requires the county clerk to keep the elector's residence address exempt from disclosure if requested by an elector who demonstrates to the satisfaction of the county clerk that the elector's personal safety or that of any family member residing with the elector is in danger. [ORS 192.501(20)]
- **Housing Authority and Urban Renewal Agency Records**
Certain records, communications and information submitted to a housing authority as defined in ORS 456.005 by applicants for and recipients of loans, grants, and tax credits. [ORS 192.501(21)]
- **Interference with Property or Service**
Records or information that if disclosed would allow a person to gain unauthorized access to buildings or other property; identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body. [ORS 192.501 (22)]
- **Security Measures**
Records or information that would reveal the security measures taken or recommended to be taken to protect [ORS 192.501 (23)]:
 - An individual
 - Buildings or other property used or owned by a public body
 - Information processing, communication, or telecommunication systems, including the information contained therein, that are used or operated by a public body

- **OHSU Donation Records**
Writings prepared by or under the direction of officials of Oregon Health Sciences University about a person and the person's potential interest in donating money or property to the university or the person's actual donation unless disclosure is authorized by the person. [ORS 192.501(24)]
- **Financial Transfer Records**
Information provided to, obtained by or used by a public body to authorize, originate, receive or authenticate a transfer of funds, including but not limited to a credit card number, payment card expiration date, password, financial institution account number and financial institution routing number. [ORS 192.501(27)]
- **Attorney-Client Privilege Records**
A public body that denies a request for a record that would otherwise be exempt under attorney-client privilege must provide a “condensed version” of the factual information in the record without waiving the privilege. A person whose request is denied may petition a court for review to make sure the condensed version is accurate.
- **Work Papers and Documents for Audits**
Work papers and related documents are exempt from disclosure until the final audit is released. Copies of the draft audit sent to an audited entity are disclosable. Affected audits are those that are conducted under nationally recognized auditing standards.
- **Email Addresses in a Public Body’s Possession**
This exemption does not apply to email addresses assigned by a public body to a public employee for use by that employee in the course of his or her public employment.

The following public records are always exempt from disclosure (ORS 192.502):

- **Internal Advisory Communications** Communication within a public body or between public bodies if it is advisory or preliminary to any final action. If the communication covers purely factual materials, or if the public interest in frank communication outweighs the public interest of disclosure then the records are exempt from disclosure.
- **Personal Privacy Exemption**
Information, which would constitute an unreasonable invasion of privacy if publicly disclosed. Unless the public interest by clear and convincing evidence requires disclosure in the particular instance.
- **Public Employee Addresses, Social Security Number, Birth Dates and Telephone Numbers**
Addresses, social security numbers, dates of birth and telephone numbers contained in personnel records maintained by employer or recipient of volunteer services. Does not apply to employees or volunteers if they are elected officials or that public interest requires disclosure in a particular instance.
- **Confidential Submissions**
In order for records submitted by a citizen of the district in confidence to be exempt, they must meet the following tests:

- The informant must have submitted the information on the condition that it would be kept confidential.
 - The informant must not have been required by law to provide the information.
 - The information itself must be of a nature that reasonably should be kept confidential.
 - The public body must show that it has obliged itself in *good faith* not to disclose the information.
 - Disclosure of the information must cause harm to the public interest.
- **Corrections and Parole Board Records**
Information or records from the Department of Corrections which if made available to the public would interfere with the rehabilitation of a person in custody.
 - **Lending Institution Records**
Records, reports and other information received or compiled by the Department of Consumer and Business Services to the extent that interests of lending institutions, their officers, employees and customers in preserving the confidentiality of such information outweighs the public interest in disclosure.
 - **Presentence and Probation Reports** Presentence and probation reports filed with court order.
 - **Federal Law Exemption**
Any public records or information the disclosure of which is prohibited by federal law. For example, public assistance and unemployment insurance records, and certain student records.
 - **Other Oregon Statutes Establishing Specific Exemptions**
Any public records or information the disclosure of which is prohibited, restricted, or otherwise made confidential or privileged under Oregon law.
 - **Transferred Records**
Public records or information furnished by a public body to any other public officer or public body in connection with performance of the duties of the recipient.
 - **Security Programs for Transportation of Radioactive Materials**
Records of the Energy Facility Sitting Council concerning the review or approval of security programs pursuant to sitting of nuclear power plants.
 - **PERS Nonfinancial Information about Members**
Employee and retiree address, telephone number and other non-financial membership records and employee financial records maintained by the Public Employees Retirement System.
 - **Records Relating to Treasury or OIC Publicly Traded Investments**
Confidential records provided to the State Treasurer or Oregon Investment Council by private businesses or individuals related to proposed public investments.
 - **Public Employee Retirement Fund and Industrial Accident Fund Monthly Reports**

The monthly reports prepared and submitted concerning the Public Employee Retirement Fund and Industrial Accident Fund may be exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

- **Abandoned Property Reports**
Reports of abandoned property filed by the property holder.
- **Economic Development Information**
Information submitted to the Oregon Economic Development Department, including personal financial statements, financial statements of applicants, customer lists, information of an applicant pertaining to litigation, production and sales data, or marketing strategy information.
- **Transient Lodging Tax Records**
Records, reports or returns submitted by private concerns or enterprises required by law to be submitted to or inspected by a governmental body to allow it to determine the amount of any transient lodging tax payable and the amounts of such tax payable or paid.
- **Information for Obtaining Court Appointed Counsel**
All information supplied by a person for the purpose of requesting court-appointed counsel.
- **Workers' Compensation Claim Records**
Workers' compensation claims records that can be used to discriminate unlawfully against persons previously injured on the job who has filed a workers' compensation claim.
- **OHSU Sensitive Business Records**
Records of financial or commercial information of the Oregon Health Sciences University that is not customarily provided to business competitors.
- **OHSU Candidates for University President**
Records of the Oregon Health Sciences University regarding candidates for the position of university president.
- **Library Records**
The records of a library, including circulation records, showing use of specific library material by a named person or consisting of the name of a library patron together with the address or telephone number, or both, of the patron.
- **Housing and Community Services Department Records**
Records, communications and information submitted by applicants for and recipients of loans, grants and tax credits:
 - Personal and corporate financial statements and information, including tax returns
 - Credit reports
 - Project appraisals
 - Market studies and analyses
 - Articles of incorporation, partnership agreements and operating agreements
 - Commitment letters
 - Project pro forma statements
 - Project cost certifications and cost data
 - Audits
 - Project tenant correspondence requested to be confidential
 - Tenant files relating to certification.

- Housing assistance payment requests
- **Forestland Geographic Information System**
Raster Geographical Information System (GIS) digital databases provided voluntarily and in confidence to the State Forestry Department.
- **Electricity Sale or Purchase of Electric Power**
Sensitive business, commercial or financial information furnished to or developed by a public body engaged in the business of providing electricity or electricity services, if the information is directly related to a transaction described in ORS 261.348, or if the information is directly related to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and disclosure of the information would cause a competitive disadvantage for the public body or its retail electricity customers.
- **Klamath Cogeneration Project**
Sensitive business, commercial or financial information furnished to or developed by the City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath Cogeneration Project, if the information is directly related to a transaction and disclosure of the information would cause a competitive disadvantage for the Klamath Cogeneration Project.
- **Public Utility Customer Information**
Personally identifiable information about customers of a municipal electric utility or a people's utility district, or the names, dates of birth, driver license numbers, telephone numbers, electronic mail addresses or Social Security numbers of customers who receive water, sewer or storm drain services from a public body as defined in ORS 174.109.
- **Security Programs**
Information about or approval of programs relating to the security of:
 - Generation, storage or conveyance of electricity; gas in liquefied or gaseous form; hazardous substance as defined in ORS 453.005(7)(a), (b) and (d); petroleum products; sewage; or water.
 - Telecommunication systems, including cellular, wireless or radio systems.
 - Data transmission by whatever means provided.
- **Public Safety Officer Addresses, Telephone Numbers and Electronic Mail Addresses**
The home address, home telephone number and electronic mail address if requested by a public safety officer, defined in ORS 181.610 to include "corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and fire service professionals." This exemption does not apply to addresses and telephone numbers that are contained in county real property or lien records.
- **Separation of Exempt and Nonexempt Material**

If any public record contains material which is not exempt under ORS 192.501 and 192.502, as well as material which is exempt from disclosure, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination.

Other Public Record Exemption Rules

- After 25 years, exempt records lose their exemption and may be available to the public.
- Records may be exempt for up to 75 years if they contain information about the physical or mental health, or psychiatric care or treatment of a living individual.
- Records less than 75 years old which are sealed by statute or by a court order are exempt unless a court orders disclosure.
- Records of a person who is or has been in custody or under the supervision of a state agency, court or local government are exempt from disclosure for 25 years following termination of the custody to the extent that disclosure would interfere with rehabilitation of the person. The public interest in confidentiality may outweigh the exemption.
- Student records required by state or federal law to exempt from disclosure.

ENFORCEMENT

A person denied the right to inspect or obtain a copy of a public record may petition the District Attorney (DA) for release of the record. The district may seek the advice of the DA prior to denial of an inspection request. Upon receipt of the petition for review to the DA, the DA will ask the district for a copy of the record for review. The district should provide a copy to the DA with an explanation justifying denial of disclosure. The DA has seven days to deny or grant the petition, and failure of the DA to decide within the seven-day period constitutes denial of disclosure. If the DA denies disclosure, the petition may seek judicial review. If the DA orders disclosure, against the denial by the district, the district may give notice and file suit in Circuit Court for a judicial determination.

Districts should seek the advice of legal counsel if they receive a request, which is difficult to arrange, or if they feel the request should be denied on the basis that the records are exempt from the Public Records Laws. The State Attorney General has concluded that, "when a public body does so, it does not thereby actually or constructively deny the request. Nor does a public body deny a request merely because it fails to comply with the deadline the requester seeks to impose."

RESOURCES

Archives Division – Records Retention Requirements:

secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=589

Attorney General's Public Meetings and Records Manual:

www.doj.state.or.us/public_records/pages/index.aspx

Public Meetings and Records (ORS 192):

https://www.oregonlegislature.gov/bills_laws/ors/ors192.html

SDAO Resource Library/Meetings and Records: www.sdaoresourcelibrary.com