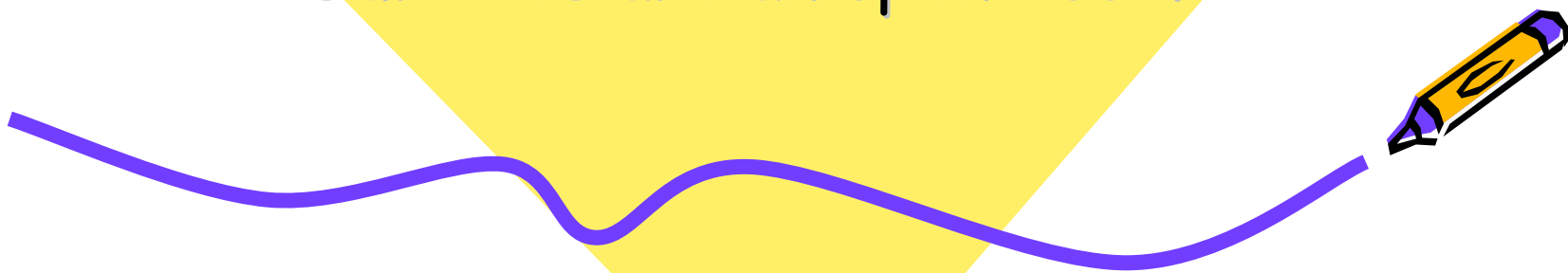


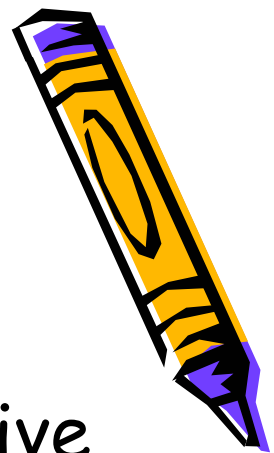


Public Records Law

Our lives are an open book.



Introduction



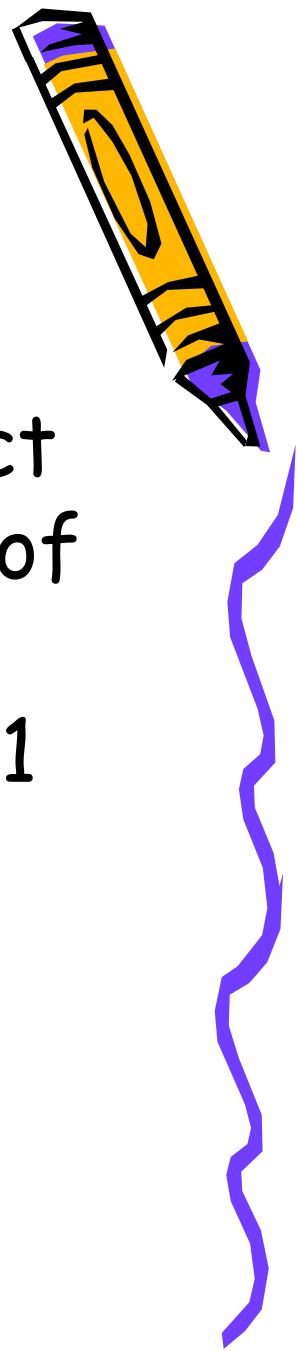
- This slide presentation is intended to give a brief overview of our obligation to provide access to our records under Public Record Law.
- Any questions regarding the process for complying with public records requests should be directed to SOU's records custodian/director of administrative services Deborah Drost, 2-8550.



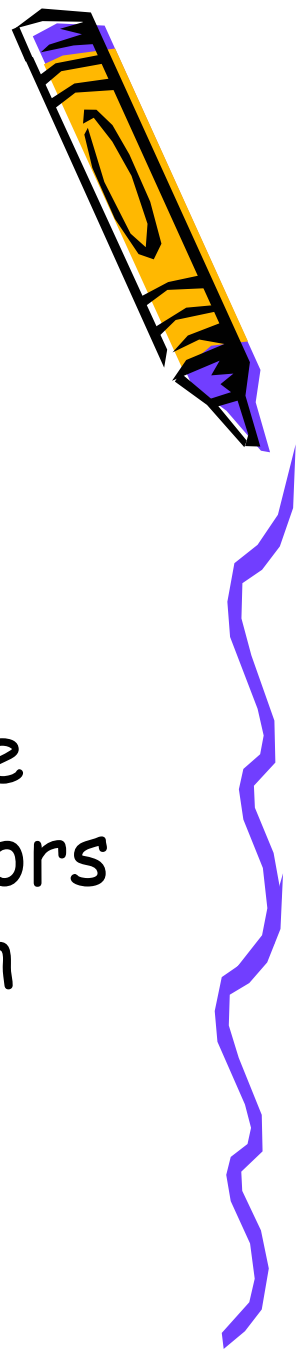
The Law

ORS 192.410 to 192.505

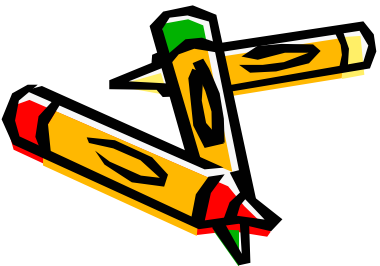
- "Every person has a right to inspect any public record of a public body of this state except as otherwise expressly provided by ORS 192.501 to 192.505."



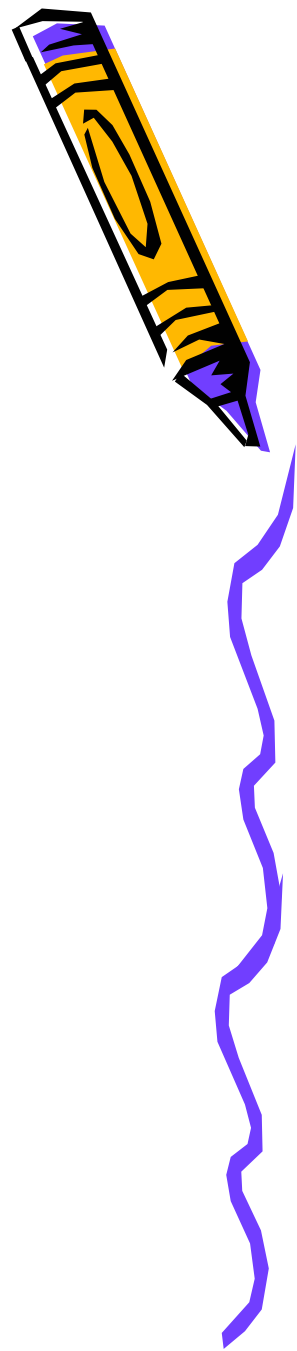
Who, What, When, Where and Why Does Not Apply



- The identity, motive, or need of a person requesting access to public records is not relevant unless a specific exemption from disclosure allows consideration of those factors or the information is sought for an unlawful purpose.



Who Is Subject to the Law?



- Any public body that is the "custodian" of the public records.
- "Custodian" is the public body mandated to create, maintain, or control a public record.



Records Subject to the Law



- Any "writing" containing information relating to conduct of public business that is prepared, owned, used or retained by a public body regardless of physical form or characteristics.
- "Writing" includes all documentation from handwriting to photographs to diskettes and tapes.
- Email is a public record - including "deleted" messages that exist on back-up tapes.
- Distinguished writings owned by private parties that are in temporary possession of government.



Identifying a Public Records Request



- Not every request for information or documentation is a public records request. The following are examples of materials that are not subject to public records law:
 - Public relations and informational/public service documents that promote a program or activity or provide routine information on public functions.
 - Documents required to be provided by law, such as notice of public meeting, notice of pending land use action.

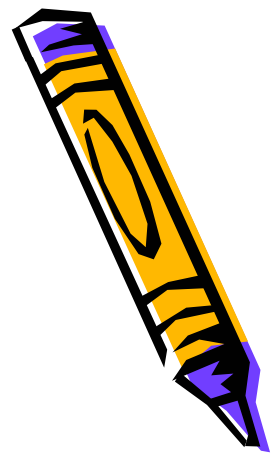


Duties of Records Custodian



- Make nonexempt public records available to the public for inspection and copying.
 - Requestor has a right to inspect original documents.
- Segregate exempt material from nonexempt material. Inform requestor if all requested records are not being disclosed.
 - Providing an edited copy rather than allowing inspection of the original for documents that contain both exempt and nonexempt information may be the most reasonable procedure.
- Furnish proper and reasonable opportunity for inspection in custodian's office during business hours.
 - Public body has a "reasonable" time to respond.





- Furnish a place for inspection of records.
- Allow member of public to bring in personal copying equipment if it will not interfere with the records or conduct of office business.
- Provide copies in electronic or machine-readable form if requested.
 - Applies only if records are maintained in that format and are available.
- Provide certified copies on demand if the record can be copied and/or provided in electronic form. Certification can be provided as a cover sheet or last sheet of copy.



Paper Copy



Certification of True Copy

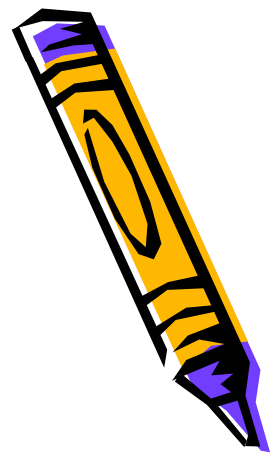
I certify that I have compared the attached _____ (document) _____ consisting of _____ page(s) with the original in this office, that I am the record custodian, and that the attached is a true and correct copy.

Southern Oregon University

_____/_____
Date Year

Signature

Name and title



Electronic Record



Certification of True Copy

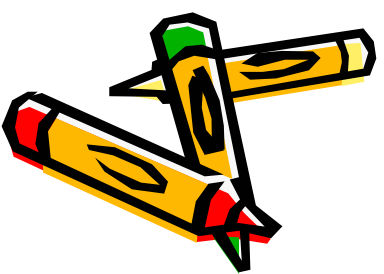
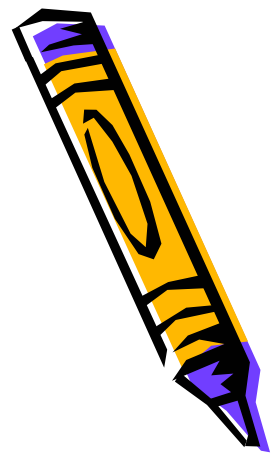
I certify that I have compared the (description of record/data) contained on the attached (email, diskette, tape, whatever) with the original in this office, that I am the record custodian, and that the attached is a true and correct copy of the original. However, because of the nature of electronic medium on which the attached record is provided, I cannot ensure that its contents will not be modified after its release from my custody.

Southern Oregon University

_____/_____
Date Year

Signature

Name and title

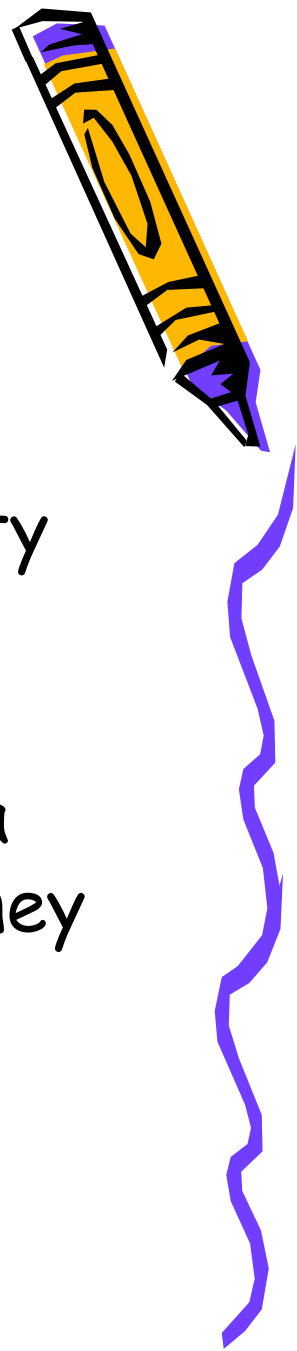




- Comply with Americans with Disabilities Act.
 - Provide alternative form if requested.
 - Cannot charge a disabled person a fee to cover costs of providing records in an alternative print form; a charge for all other costs may be made.



What Is a "Reasonable" Response Time?



- Depends on the volume of records requested, available staff, and difficulty determining if any of the records are exempt from disclosure BUT
- 72 hours is considered reasonable for a typical request according to the Attorney General's office.



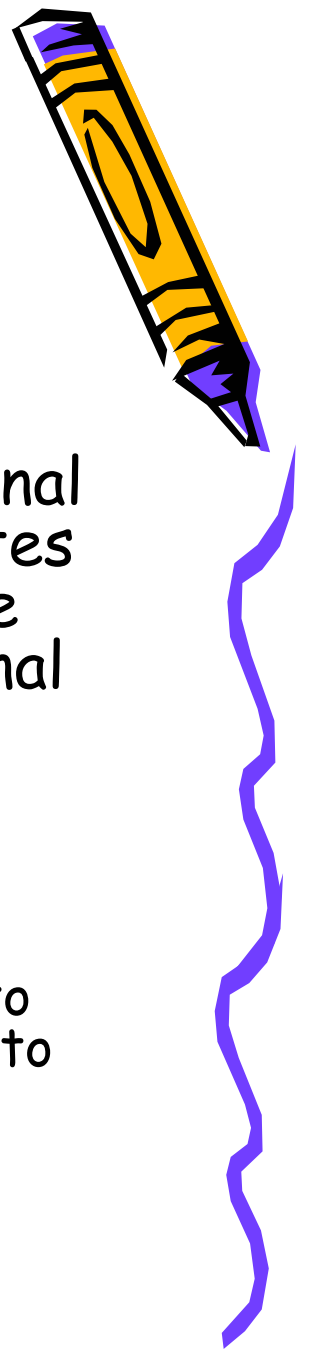
Determine Complexity of the Request



- **Routine:** materials are readily available. Example: budget reports, annual reports.
- **Simple:** Material that can be easily gathered from a single location. Example: meeting minutes, correspondence.
- **Complex:** Request for a large number of documents; or those that are more than 1 year old; or are likely to contain confidential information; or require extensive staff time to locate, review and prepare.



Records That Are Exempt From Disclosure - No Exceptions



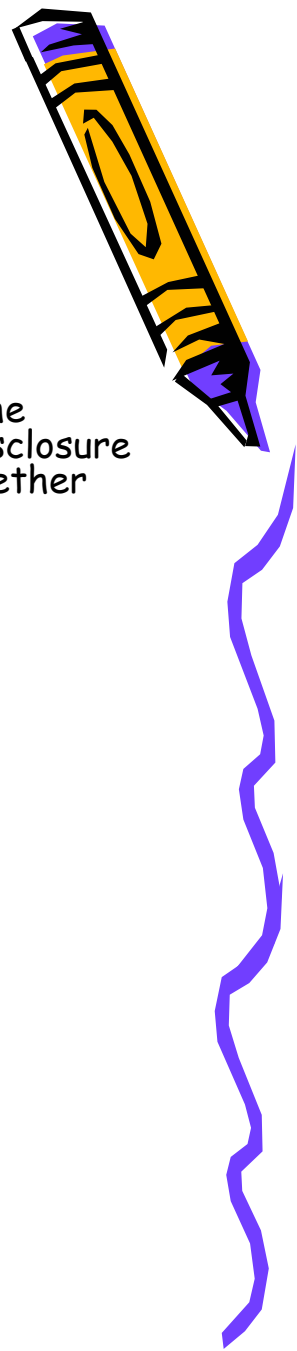
- Personal Safety exemption. ORS 192.445 prohibits disclosure of home address or personal telephone number if the individual demonstrates to the satisfaction of the public body that the personal safety of the individual or the personal safety of a family member residing with the individual is in danger if that information is disclosed.
 - See OAR 137-004-0800 which describes evidence to establish that disclosure would constitute a danger to personal safety and procedures to be followed.



Records Exempt From Disclosure Except When They're Not (ORS 192.501)

Conditional Disclosure: Exempts a specific type of record information "unless the public interest requires disclosure in the particular instance." Requests for disclosure for these records are decided on a case-by-case basis. Public body decides whether the public interest requires disclosure even if the terms of the exemption are satisfied.

- Records pertaining to litigation.
- Trade secrets.
- Criminal investigatory information.
- Examination data.
- Business records required to be submitted.
- Union representation.
- Civil rights investigation.
- Unfair labor practice investigation.
- Personnel discipline information.
- Faculty research.
- Computer programs.





- Unsafe workplace investigation. ORS 192.501(17).
- Telecommunication utility audits. ORS 192.501(19).
- Security measures. ORS 192.501(23)



Specially Conditional and Unconditional Exemptions

ORS 192.502



- Internal advisory communications.
- Personal information.
- Public employee addresses, birth dates, telephone numbers.
- Information submitted in confidence.
- Transferred records.
- PERS member records.
- Workers' compensation claims.
- Library records.



Exception to the Exemptions

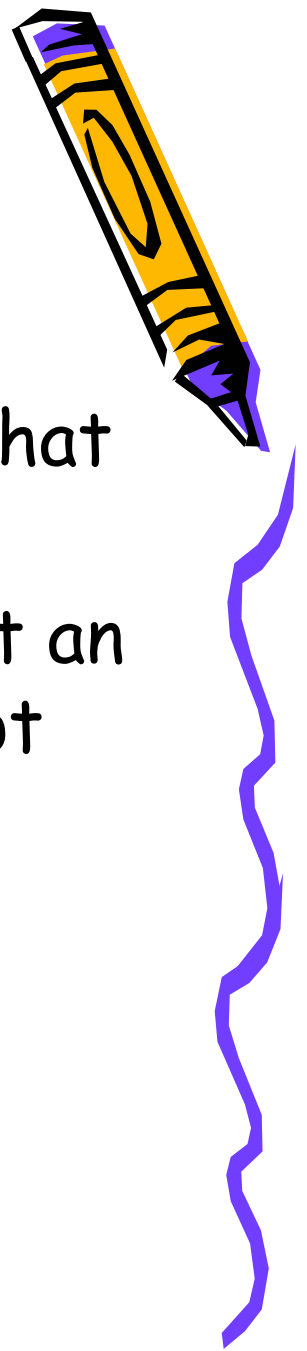


- With limited exceptions, records more than 25 years old are not exempt from disclosure (ORS 192.495, 192.496).
- Records that do not lose their exempt status after 25 years (in addition to the personal safety exemption) include:
 - Medical records
 - Sealed records
 - Custody records
 - Student records



Denying Requests

- Public body has the burden of proving that a record is exempt from disclosure.
- Denial of a public records request is not an option even for records that are exempt from disclosure. Legal counsel should always be consulted when a request is made for access to an exempt record.



Fees



- The following is excerpted from SOU's administrative rule 573-001-0075.
"The following charges will be made, payable in advance or when the materials are furnished:
 - (1) Copies of documents:
 - (a) 25¢ per page (50¢ if printed front and back);
 - (2) Other materials such as computer tapes, microfilm, and microfiche copies, audio tape cassettes, computer services, etc., shall be provided at a fee reasonably calculated to reimburse the University for actual costs incurred in making records available to the public.
 - (3) When materials are not readily available, such as in the case of files in the archives, or require an inordinate length of time to assemble due to the scope of the request, an additional charge of \$10 per hour may be assessed to cover staff time required to make the information available."

