

**UO Senate Transparency Committee
AY 2015-2016
Annual Report**

Committee: Scott Maier (chair); Gina Psaki, Dianne Dugaw (outgoing), Chris Sinclair (incoming)

Background. The Senate Code of Ethics (revised January 2016) states: “Public Accountability ensures that the University of Oregon fulfills its mission as a public institution. Governance and financial processes will be transparent and inclusive. Secrecy will be eschewed except when it is invoked to protect legitimate confidential interests.”

The Senate public records review committee (Transparency Committee) was established by a Senate vote May 2010. Under the committee’s “Charge and Responsibilities,” The Committee shall “Review UO's procedures regarding access to public records and financial information, and evaluate the effectiveness of those procedures. The Senate requests that the administration give the committee free and unfettered access to a listing of public records requests and their status, and to any reports by the UO public records officer to the administration regarding public records.”

Public record requests. Kevin Reed, UO vice president and general counsel (also an ex-officio member of the Transparency committee), provided the following information regarding public information requests:

In FY15, 332 public record requests were made. Media accounted for approximately 30% of requests, private individuals 31%, commercial 28% , student media 8%, other 2%.

Fee waivers were provided for 241 requests. For FY15, the office brought in \$5,395, averaging \$174 per request. The full estimated amount assessed to all requestors (N= 85) was \$65,159.

As of March 2016, 51% of 188 requests resulted in “unqualified production” of documents, 30% grants in part and redactions/withholding in part, and 7% denied in full. (The remainder of requests were mostly withdrawn or dropped).

At the committee’s request, the general counsel’s office also provided a log listing how individual record requests were handled (final disposition and discretionary codes). Among the cited exemptions from disclosure were personal matters (i.e., health records), preliminary/advisory information, materials subject to lawyer-client privilege, student email addresses, and “trade secrets.” FERPA was cited only once.

Recommendations. The Senate Transparency Committee appreciates the professional and generally timely manner that public information requests appear to be handled by the UO Office of Public Records. The Committee also acknowledges the mandated balancing of interests between public transparency and protection of privacy.

While the majority of public-information requests were handled free of charge, the Transparency Committee is concerned about the significant number of requests assessed large fees for what are acknowledged as public records. For FY15, the assessed fee averaged \$767 ($\$65,159 / N = 85$). However, the office brought in only \$5,395 from 31 payments, averaging 174 per request. In other words, more than 50 open records requests went unfulfilled apparently due to assessed fees.

It is evident that such charges are a prohibitive cost for individuals, some news media and other non-commercial interests seeking to understand the basis on which this public institution reaches its decisions. We fear that these discretionary fees have a chilling effect on public discourse and ultimately undermine public trust and support of the university.

The committee recommends further review with the Office of Public Records and its representatives to examine when waiver or partial waiver of fees are considered appropriate and when not, and to explore alternative methods of balancing institutional costs with the public (and institutional) interest in open disclosure of University decision-making.