

New Public Records Law – Now in Effect

The new public records law officially went into effect on January 1, 2018.

The Oregon Legislature passed four public records laws last session - SB 481, SB 106, HB 2101, and HB 3361. The one that focuses on that impacts the County the most is SB 481, which among other things, sets time requirements that public bodies must meet when responding to requests for public records and specifies the process for responding.

Currently, if a person makes a written request to inspect a public record or to receive a copy of a public record, the public body receiving the request shall respond as soon as practicable and without unreasonable delay. Effective January 1, 2018, the public body has five business days to either (a) acknowledge the request, or (b) complete the request.

How to acknowledge the response:

- Confirm that the public body is the custodian of the requested record, or
- Inform the requester that the public body is not the custodian, or
- Notify the requester that the public body is unsure whether it is the custodian of the record.

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:

- 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 requestor 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 the Public Record Request in writing and they specify the designee who will process the requests.
- Require all requests to be in writing.