



MEMORANDUM

To: Peter Gilkey, Senate President

From: Office of the General Counsel

Date: November 20, 2009

Re: Fiscal Impact of Public Records Requests for US09/10-7 Motion

Since May 2006, the University of Oregon has received approximately 400 public records requests. Approximately 101 of those requests were submitted by University personnel. Of those 101 requests, 96 were from a single faculty member, two were from another faculty member, two were from two other faculty members (one request each), and one request was from a staff person. (See Exhibit A)

Under Oregon law, public records requesters may petition the University's response to their requests to the Oregon Department of Justice (ODOJ) if they disagree with the University's decision. From May of 2006 to November of 2009, 44 petitions of the University's responses have been filed with the ODOJ. Thirty-five of those petitions were filed by a single University faculty member, all of which were denied.

Charges to the University from the ODOJ associated with the 44 public records petitions total \$65,626.25. \$36,412.60 of that amount is from the faculty member that filed the 35 petitions. That amount does not include the hours of University staff time it took to gather and provide information requested by the ODOJ so that it could properly analyze the petitions and determine whether they should be denied. It also does not include the University's time to initially respond to the underlying public records requests, generate cost estimates, and review documents to determine if they may be lawfully released. If the University's staff time were added into the calculus, the cost to the University of responding to the faculty member's public records requests and subsequent petitions to ODOJ would exceed \$67,000.00.

Non-reimbursable costs to the University associated with public records requests average \$50 - \$60 per request, which is primarily staff time. Reimbursable costs as detailed in the public records statutes are provided in an estimate to the requester. Following is an outline of how costs are determined.

The University charges a copy fee of 25 cents per page. The University also charges for the actual cost of making public records available. The charge includes, but is not limited to, staff costs for locating, gathering, summarizing, compiling, reviewing, tailoring or redacting the public records to respond to a request. The charge may also include the cost of time spent by an attorney in reviewing the public records, redacting material from the public records, or segregating the public records into exempt and nonexempt records. If the request is to inspect records, the charge includes the time for records to be prepared for review and the cost of staff time for a staff member to be present while the requester reviews the records to preserve the integrity of the University's records. The charge will also include the cost of sending the records where copies are requested.

The cost of time for each employee is calculated by multiplying the employee's hourly wage calculation (including benefits expenses) by the hours or portions thereof necessary to locate, gather, summarize, compile, tailor, review, redact, segregate, certify or attend the inspection of the public records requested.

State agencies like the University may waive public records fees in some circumstances if doing so serves “the general public,” in contrast to a concern or interest of a private individual or entity. But even in cases where the University has authority to waive fees, it generally charges public records requestors for the reimbursable actual costs associated with responding to their requests in order to help recover the costs of responding to public records requests. As noted above, the University receives a plethora of public records requests every year, and if it did not recover the costs it could lawfully recover for responding to those requests, departments called upon to respond to the request would have to cover the cost of doing so with tuition dollars, state-appropriated money or other sources of revenue (grants, gifts, etc . . .).

EXHIBIT A

UO Employee	Number of Public Records Requests, May 2006 – current	Number of Petitions to Department of Justice	Department of Justice Costs Billed to UO
Faculty	1	0	
Faculty	1	0	
Faculty	96	35	\$36,412.60
Faculty	2	0	
Staff	1	0	
Total	101	35	