

Proposed adaptation of chair’s proposal, incorporating “shall-unless” language discussed by the committee, from member Steve Suo

Strikethrough and bold indicate deletions and additions

ORS 192.324(5) is amended to read:

The custodian of a public record may furnish copies without charge or at a substantially reduced fee ~~if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public~~ **for any reason, such as when: the cost of fee collection would exceed the amount of the fee itself; a public body has established a policy for routinely waiving fees; a requester demonstrates indigence; a request is for records that primarily concern the requester.**

- (a) If the custodian of a public record determines that disclosure is in the public interest because making the record available primarily benefits the general public, the custodian shall furnish copies to the requester without charge. The custodian of a public record may limit the portion of fees waived if the custodian demonstrates that, in the particular instance, the public interest in disclosure is partially or entirely outweighed by a severe impact on public services that will be created by preparing the records for the requester.**
- (b) A request by a news media representative (as defined in paragraph ‘e’ below) shall be assumed to be in the public interest unless the public body demonstrates that, in the particular instance, it is not.**
- (c) Except for requests made by a news media representative, a request on behalf of a commercial entity shall not be considered to be in the public interest.**
- (d) If the custodian of a public record determines that a request is not in the public interest, or that the public interest is partially or entirely outweighed by a severe impact on public services that will be created by preparing the records for the requester, the custodian shall provide the reason for this determination in writing.**

[the following is adapted from 5 USC 552(a)(4)(A)(ii)]

- (e) For purposes of this section, “News media representative” means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term “news” means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase by or**

subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

If we desire to cite examples of public interest, these are some I would include:

Requests that shall be considered in the public interest include, but are not limited to, those that may:

- hold a public body accountable for wise spending or policy decisions;
- shed substantial light on the performance of a public official's duties;
- reveal trends and emerging problems in issues of public health and public safety;
- expose harm to people whose welfare is the public body's responsibility.