

**CHAPTER 407**  
**DEPARTMENT OF HUMAN SERVICES,**  
**ADMINISTRATIVE SERVICES DIVISION AND DIRECTOR'S OFFICE**

**DIVISION 3**  
**PUBLIC RECORD FEES**

**407-003-0000**

**Definitions**

The following definitions apply to Oregon Administrative Rule 407-003-0010 unless otherwise indicated:

- (1) "Department" refers to the Oregon Department of Human Services.
- (2) "Designee" refers to any officer or employee of the Department, appointed by the Director to respond to requests for reduction or waiver of fees for public records of the Department.
- (3) "Director" refers to the Director of the Department.
- (4) "Person" includes any natural person, corporation, partnership, firm, or association.
- (5) "Photocopy(ing)" includes a photograph, microphotograph and any other reproduction on paper or film in any scale, or the process of reproducing, in the form of a photocopy, a public record.
- (6) "Public record" includes any writing that contains information relating to the conduct of the public's business that is prepared, owned, used or retained by the Department regardless of physical form or characteristics.
- (7) "Requestor" refers to a person requesting inspection, copies, or other reproduction of a public record of the Department.
- (8) "Writing" means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. It includes information stored on computer tape, microfiche, photographs, films, tape or videotape or that is maintained in a machine readable or electronic form.

Stat. Authority: ORS 192.430, 409.050

Stats. Implemented: ORS192.430, 192.440, 409.010

**407-003-0010**

**Fees for Inspection or Copies of Public Records and Department of Human Services Publications; Other Services**

- (1) The Department may charge a fee reasonably calculated to reimburse the Department for the cost of making public records available.
  - (a) Costs include but are not limited to:
    - (A) The services and supplies used in making the records available;
    - (B) The time spent locating the requested records, reviewing the records, and redacting, or separating material exempt from disclosure;
    - (C) Supervising a person's inspection of original documents;
    - (D) Copying records;
    - (E) Certifying copies of records;
    - (F) Summarizing, compiling, or organizing the public records to meet the person's request;
    - (G) Searching for and reviewing records even if the records subsequently are determined to be exempt from disclosure;
    - (H) Postal and freight charges for shipping the copies of the public records, sent first class or bulk rate based on weight;
    - (I) Indirect costs or third party charges associated with copying and preparing the public records; and
    - (J) Costs associated with electronic retrieval of records.
  - (b) When a Department of Justice review of the records is requested by the Department of Human Services, the Department may charge a fee equal to the Attorney General's charge for the time spent by the attorney reviewing the public records, redacting material from the records, and segregating the public records into exempt and nonexempt records. A fee will not be charged for the cost of time spent by an attorney in determining the application of the provisions of ORS 192.410 to 192.505.
  - (c) Staff time will be calculated based on the hourly rate of pay and fringe benefits for the position of the person performing the work.

- (d) The cost for publications will be based on the actual costs of development, printing and distribution, as determined by the Department.
  - (e) The cost for a public records request requiring the Department to access the State's mainframe computer system, may include but not be limited to costs for computer usage time, data transfer costs, disk work space costs, programming, and fixed portion costs for printing and/or tape drive usage.
- (2) The Department will establish a list of fees used to charge requestors for the costs of preparing and making available public records for the following:
- (a) Photocopies.
  - (b) Facsimile copies. The Department may limit the transmission to thirty pages.
  - (c) Electronic copies, diskettes, DVDs, and other electronically generated materials. The Department will determine what electronic media for reproduction of computer records will be used and whether the electronic media is to be provided by the Department or the requestor.
  - (d) Audio or video cassettes.
  - (e) Publications.
- (3) The Department will review the list of fees established in policy from time to time in order to assure that the fees reflect current Department costs.
- (4) No additional fee will be charged for providing records or documents in an alternative format when required by the Americans with Disabilities Act.
- (5) The Department will notify requestors of the estimated fees for making the public records available for inspection or for providing copies to the requestor. If the estimated fees exceed \$25, the Department will provide written notice and will not act further to respond to the request until the requestor notifies the Department, in writing, to proceed with making the records available.
- (a) The Department may require that all or a portion of the estimated fees be paid before the Department will proceed with making the record available.
  - (b) The Department may require that actual costs of making the record available be paid before the record is made available for inspection or copies provided.
- (6) The Director or designee may reduce or waive fees when a determination is made that the waiver or reduction of fees is in the public interest because making the records available primarily benefits the general public. Factors that may be taken into account in making such a determination include, but are not limited to:

- (a) The overall costs to be incurred by the Department is negligible; or
  - (b) Supplying the requested records or documents is within the normal scope of Department activity; or
  - (c) Requiring payment would cause extreme or undue financial hardship upon the requestor; or
  - (d) Discovery requests made as part of pending administrative, judicial, or arbitration proceedings.
- (7) If the Department denies an initial verbal request for waiver or reduction of fees, the requestor will submit a written request. If the Department subsequently denies the written request for a waiver or reduction of fees, the requestor may petition the Attorney General for a review of the denial pursuant to the provisions of ORS 192.440(6) and 192.450.

Statutory Authority: ORS 192.430, 409.050

Stats. Implemented: ORS 192.430, 192.440, 409.010