

**University Archives and Records Management:
Comparisons with Other Universities' Practices in Relation to Public Records
Date: 3/1/15**

Oregon State University's Response on 2/23/15 to Questions from Adriene Lim

- 1. Does OSU include any non-permanent (exempt or non-exempt) public records in its University Archives? If yes, what types? If no, how is public access to non-permanent public records handled at your institution?**

No. The Special Collections and Archives Research Center (SCARC) does not have any non-permanent records in our holdings.

Public access to non-permanent public records is provided by the unit that generated the records and, in the case of a public records request, through the Office of the General Counsel.

SCARC manages two Records Centers for storage of non-permanent Oregon State University records until they have met their retention period. The originating office retains legal custody of these records and is the only unit that has access to the records. Public records requests for these records are handled through the Office of the General Counsel.

- 2. For permanent public records in your University Archives, can you provide a quick summary of how you handle processing and review of records before providing them in response to a reference request?**

Records are reviewed by the generating unit and SCARC staff at several points before they are made available to researchers. The generating unit does an initial review of records before they are transferred to SCARC; SCARC staff review the records for confidential records during the accessioning process and again during full processing of materials. And, finally, SCARC staff ensure that when records are provided to researchers in the Reading Room they do not include materials that have been flagged as confidential.

- 3. Could you address whether you treat exempt and non-exempt permanent records in your archives differently, i.e., are all permanent public records available publicly, or are some records "closed"? If you have any permanent records that are "closed," can you explain how public access, if any, to these "closed" records can be achieved?**

There are materials in the SCARC holdings that have restricted access and have been physically separated from unrestricted materials. Requests for access to restricted materials must be approved by the Director of SCARC. The Director makes these decisions on a case-by-case basis that takes into account the nature of the materials, in consultation as needed with SCARC colleagues or the Office of General Counsel.

- 4. How are legally privileged documents (e.g., between OSU's General Counsel and its President) handled at OSU? Would access ever be granted by the Libraries to such documents, and if so, how?**

SCARC holdings do not currently include any materials that are legally privileged, and the Office of General Counsel would handle requests for access to such documents held by university units.

- 5. Please confirm whether the OSU Libraries (vs. others such as General Counsel) is a decision maker allowed to make exceptions to any of the institutional policies, interpretations, etc., for whether exempt records are shared publicly.**

As mentioned above, the Director of SCARC has the authority to determine if a qualified researcher is allowed to have access to restricted materials in collections held by SCARC. (Please note that these are typically restricted due to privacy issues rather than being legally privileged materials.) The Office of the General Counsel makes the determination about exceptions for access to exempt records in the context of public records requests.

- 6. Do you allow republication of any University Archives' records by users (e.g., posting on a public website), without those users having obtained permission from OSU?**

The SCARC reproduction and use policy is available online here:
<http://scarc.library.oregonstate.edu/duplication.html>

Many university records are in the public domain. SCARC does not require users to receive permission from SCARC to publish, display, or distribute these materials. SCARC requests that users accurately attribute the item and notify us of the use of materials from SCARC collections.

Portland State University's replies to questions - 2/23/15

Hi Adriene,

(We) had a chance this morning to discuss [your questions]. PSU's situation is so different, that we really aren't a comparator and these questions don't apply. The University Archives is not involved in any part of the records management cycle on campus. The University Archives does not accession any non-permanent records or records subject to exemptions. The Office of General Counsel responds to public records requests—the link is at

<http://www.pdx.edu/ogc/public-records>.

On Mon, Feb 23, 2015 at 1:27 PM, Adriene Lim <alim@uoregon.edu> wrote:

I did think of one question below that might still apply to PSU. Do you have any restrictions on use that would prohibit a user from republishing (on a website for example) any copies of archives documents that s/he receives? I'm interested in learning about the types of property

rights / copyrights that are expressed by other universities in relation to these archival records. Thanks for any further information in this one area.

PSU reply:

The University Archives only provide access to or copies of historical records that are "inactive" (no longer directly relevant to the daily operations of the university) and that have been vetted against the OAR and any applicable privacy or legal restrictions. For records within those parameters, we do not place any restrictions on use or publication. For full publications copyrighted by Portland State or more creative output, such as photographs or films, we support fair use but would require licensing for commercial or for-profit use. Those requests would be forwarded to University Communications.

University of Washington's replies on 2/28/15:

1. Does UW Libraries include any non-permanent public records in its University Archives? If yes, what types? If no, how is public access to non-permanent public records handled at your institution? I have found the UW Public Records Office website, but am curious about the boundaries between your Archives and Public Records Office.

>The UW University Archives is not responsible for managing non-permanent records for the University. Our intent is to collect only permanent archival records, but because records transfers are often not straightforward and often contain non-permanent records mixed in, we do end up with non-permanent records in the Archives. We try to weed this material out over time as best as we are able, disposing of them appropriately. The UW Records Management Services (under the VP for Business and Finance) and the UW Medical Records Management (under the VP/Dean of Medicine) offices are the two units of the UW responsible for overseeing the management of all records until their retention requirements are met, at which point permanent records get transferred to the Archives and non-permanent records are destroyed. Offices aren't required to store their records with Records Management, so many records get transferred to the Archives directly from the originating departments.

The Public Records Office is also a separate unit. It is responsible for receiving and processing formal public records requests. It works directly with the offices holding the records in question to locate, review, redact, and provide the requested records. This includes records stored by an office with Records Management Services. If the records in question have already been sent to the Archives, then formal public records requests generally are not needed because we already make the records available for review.

2. For permanent public records in your University Archives, can you provide a quick summary of how you handle processing and review of records before providing them in response to a reference request?

>Before we receive a new transfer of records from an office, I try to have a direct conversation with the transferring agent (usually by phone), just to make sure they are trying to send records to the right place (we are often confused with the other records management operations) and that

the records generally seem appropriate for archival appraisal. I then ask the office to send me an inventory of the boxes being sent--we supply a spreadsheet template for them to fill in with contact information, box numbers, record series information, file headings, date ranges, and flags for files that should be evaluated for private/confidential/exempt contents (linked from the 'Records Transfers' tab on this page: <http://guides.lib.washington.edu/uarchives>)

Once I've approved the transfer and received the boxes, I will make a cursory appraisal of the contents at the box level. This includes reviewing files flagged by the transferring office, and reviewing files from record series I know to be problematic (for example, old grant administration files often contain social security numbers, faculty meeting minutes often contain confidential student and personnel information, etc.) Unfortunately, the staff transferring the records rarely have a good understanding of public records issues (they are often low-level administrative staff or even student employees) and so the confidentiality warnings from offices are only minimally helpful.

After a basic appraisal, the records are packed for efficient storage, sometimes divided into 'open' and 'restricted' boxes when necessary. Our collection management records document any access/use restrictions for use by our public services staff. A public finding aid is added to our online database of archival collection guides.

3. Could you address whether you treat exempt and non-exempt permanent records in your archives differently, i.e., are all permanent public records available publicly, or are some records "closed" and subject to more review? If you have any permanent records that are "closed," can you explain how public access, if any, to these "closed" records can be achieved?

>We do have both open and restricted permanent public records in our holdings. Some records we restrict because insufficient information was supplied by the transferring office and/or they haven't been well screened. If a reference request is made for these, the patron is told about the restriction and must wait for me to make a review of the records. We try to have the patron make as specific a request as possible from our inventories to minimize the volume of records I must review. Within up to a few days, I will then make a quick look through the boxes or files in question, looking especially where file headings raise red flags for me; I will hold back anything that I believe to be exempt from release, and allow access to the remainder of the request. Except for small requests, a careful page by page review generally isn't practicable--I make a best effort but can't guarantee that exempt records don't get past me.

We have special arrangements with the Office of the President, the Faculty Senate, and the Board of Regents to handle their records somewhat differently. The Office of the President sends us records identified as either 'open immediately' or as 'restricted'. Records sent as restricted are subject to a 50 year period during which all requests for access are referred back to the President's Office for review and the President's Office will inform me of whether it will allow or disallow access. After 50 years the general restriction is dropped (although we would still have to watch for public records exemptions). The Faculty Senate and the Board of Regents both maintain a 20 year general restriction on access, again with any requests for records in that window referred back to their offices. These processes are only for reference requests from the

Archives and are informal in a legal sense. If denied access by one of the offices, the patron could still file a formal public records request, at which point the Public Records Office would get involved. So far I have never had one of these offices turn down a request for access to records sent back to them for review.

If classified records are ever discovered, then they are transferred for storage to the UW's Applied Physics Laboratory, which has a special classified records storage operation, and the records are of course not made available until they are declassified and returned to us (although we still document their existence in our collection management records).

4. How are legally privileged documents (e.g., between UW's General Counsel and its President) handled at UW? Would access ever be granted by the Libraries to such documents, and if so, how?

>The UW doesn't allow general access to legally privileged documents. The Libraries would not make the decision to release such documents, the decision would be referred back to the originating office (most commonly the President's Office, Secretary of the Regents, or the Assistant Attorney General's Office). However, it is very common for this material to be mixed into all kinds of files in unpredictable ways. If we find it we restrict access until cleared, but I have little doubt that patrons sometimes are given access to files containing such documents without our realizing it. We have done a major processing project with our Board of Regents records to make them more accessible, but the project has been put on hold while we work with the Secretary of the Regents to figure out how to deal with the fact that privileged documents from the Asst. Attorney General appear unpredictably throughout the records.

5. Please confirm whether the UW Libraries (vs. others such as General Counsel) is a decision maker allowed to make exceptions to any of the institutional policies, interpretations, etc., for whether exempt records are shared publicly.

>The UW Libraries is not empowered to make exceptions to institutional records policies. However, as the University Archivist I have responsibility for interpreting policies to determine whether or not to make records accessible. If an office were to assert a records exemption that I disagreed with and maintain the assertion after consultation, my recourse would be to refer the patron to the Public Records Office to file a formal public records request.

6. Do you allow republication of any University Archives' records by users (e.g., posting on a public website), without those users having obtained permission from UW?

>The University Archives does not require permissions for use of public records once it has determined that access can be granted. Our interpretation is that the public may make free use of public records. The University Archives does require permissions for use of privately donated materials, for example collections of faculty papers or memorabilia from alumni.