



**MIKE SCHMIDT**, District Attorney for Multnomah County

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April 6, 2021

Nabil Khlafa  
nabilnoble77@gmail.com (via email only)

D. Raghav Shan  
Oregon Health & Science University  
Legal Department  
3181 S.W. Sam Jackson Park Road, L585  
Portland, Oregon 97239

Re: Petition of Nabil Khlafa seeking review of redactions made to a public records response.

Dear Mr. Khlafa and Mr. Shan:

Petitioner, Nabil Khlafa, petitioned this office seeking review of redactions made to a public records production provided to him by Oregon Health & Science University (OHSU). Mr. Khlafa had requested, in relevant part, all records relating to “the complaint [he] submitted to the Integrity Office about this hiring process[.]” Other records were requested simultaneously, and those were provided without redaction.

OHSU produced 117 pages of emails responsive to this portion of the requests and imposed minor redactions. Only one redaction remains at issue: a single sentence redacted from p. 107 of the production.<sup>1</sup> OHSU asserts that this redaction is supported by ORS 192.355(1), the internal advisory communication exemption. For the reasons discussed in more detail below, we agree and deny the petition.

## **DISCUSSION**

### **A. Internal Advisory Communication – ORS 192.355(1)**

ORS 192.355(1) exempts from disclosure under the public records law:

Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

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<sup>1</sup> Additional redactions were initially made but, after this appeal was filed, were withdrawn by OHSU and the relevant material has been provided to petitioner. This single sentence is the only remaining point of dispute.

Having reviewed the email at issue, it is clear that it is internal to OHSU, prior to a final determination about review of Mr. Khlafa's complaint, and addresses other than purely factual matters. That leaves us to assess the public interest in frank internal communications against the public's interest in disclosure.

The context of this request readily demonstrates that the interest in this information is personal in nature. This is not to say that a requestor may not use the public records law to seek matters of personal interest. However, an intense personal interest does not typically translate to a public interest that would support fee waivers or overriding the facial applicability of a conditional exemption. See, ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at p.33. It is sufficient here to say there is some interest in encouraging frank communication on this record and this clearly outweighs a personal interest in disclosure.

**ORDER**

Accordingly, the petition is denied.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mike Schmidt", written over a horizontal line.

MIKE SCHMIDT

District Attorney

Multnomah County, Oregon