



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 the timeliness of Oregon Health & Science University's response to a public records request.

Dear Mr. Khlafa:

You asked that I review the lawfulness of the length of time it took Oregon Health & Science University (OHSU) to respond to a request you made for public records. The relevant facts are straight forward. You sent a public records request to OHSU on February 2, 2021. OHSU did not respond until February 24, 2021, when it said it had no responsive records.

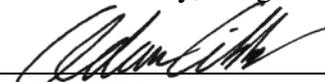
There are two laws of relevance here: the first, ORS 192.324(2), requires that a public body acknowledge a records request within five business days of receipt. OHSU agrees that it failed to do this. However, OHSU also correctly observes that the district attorney has no ability to remedy non-compliance with this statute. See, ORS 192.407(1) (granting us authority to review non-compliance with the timelines in ORS 192.329 only) and ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2019) at 12 ("failure to acknowledge a records request cannot be the grounds for a petition to the [...] district attorney.")

The second law, ORS 192.329(5), which I do have authority to enforce, requires a public body to complete its response to a request within fifteen business days absent exceptions not relevant here. In this case the fifteenth business day after your request was February 24, 2021. On that day OHSU did, in fact, complete its response by indicating it was not the custodian of responsive records, a permissible response under ORS 192.329(2)(d).

Accordingly, there has been no violation of ORS 192.329, so I must deny your petition.

Regards,

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
Senior Deputy District Attorney

Cc: D. Raghav Shan, OHSU