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May 18, 2021

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

Re: Petition of Diane Sykes, on behalf of Dr. Rosemarie Hemmings, requesting job applicant records from Oregon Health & Science University

Dear Ms. Sykes and Mr. Shan:

Petitioner, Diane Sykes, has asked this office to order Oregon Health & Science University (OHSU) produce additional records under the public records law. Petitioner had made a public records request for:

Documents which discuss, refer or mention the creation of, posting and hiring process for the appointment of OHSU Ombudsman on or about November 20, 2020, to include: the job announcement, position description and minimum qualifications for the position, OHSU policies on interviewing and hiring for this position, documents which identify the decision makers/hiring panel, information considered by the hiring panel for the final candidates, including Nic Ladino and Dr. Rosemarie Hemmings, the resumes and applicants for the finalists and hiring panel interview notes.

In response to this request, OHSU produced to petitioner a position description and recruitment policy, but asserted that any other responsive records were exempt under ORS 192.355(2)¹ and ORS 192.355(4). This appeal ensued.

Pursuant to ORS 192.422(2), OHSU has provided us with copies of the withheld records: two resumes and associated cover letters. OHSU states that it withheld no additional responsive documents apart from those resumes. For the reasons discussed below, we grant the petition and order the records produced subject to redaction of personal contact information that petitioner expressly does not seek.

¹ OHSU asserts ORS 192.355(2), which exempts material that would unreasonably invade privacy, only as to information that petitioner agrees may be redacted. Because these redactions are not contested, we do not discuss the applicability of this exemption further.

DISCUSSION

A. Confidential Submissions – ORS 192.355(4)

ORS 192.355(4) exempts from disclosure:

Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

Over the years this office has addressed the question of public disclosure of job applicants' resumes on multiple occasions. Depending on the particular facts of each case we have found some subject to disclosure and others not. See, *Petition of Schmidt*, MCDA PRO 13-08 (2013) (ordering released resumes of job finalists for PBOT director); *Petition of Beaven*, MCDA PRO 11-08 (2011) (ordering released resumes of job applicants for Reynolds High School assistant principal); *Petition of Hudson*, MCDA PRO 17-02 (2017) (denying petition for bulk data request of unsuccessful job applicants to HomeForward); *Petition of Budnick/Wilson*, MCDA PRO 17-38 (2017) (denying petition of names of finalists for Portland's chief of police).

Disclosure of a resume in itself cannot be said to unreasonably invade a person's privacy or impede any public interest because resumes are created with the express purpose of being shared with others. It is only what a resume signifies in a particular context, that a particular person is interested in a particular job, that we have ever recognized has any potential for being confidential under the public records law.

OHSU bears the burden of proving the existence of all five elements in ORS 192.355(4) to sustain its claim of exemption. In this case we need only look to the fifth: OHSU must show that the public interest would suffer if this information were released. The nature of petitioner's interest in the records has no bearing on this analysis.²

OHSU argues that identification of unsuccessful applicants for a position could chill future applicants from seeking employment with OHSU, and thereby harm the public's interest in having public universities and hospitals that attract the best talent. That is, well-qualified applicants might be less likely to apply if they run the risk of being publicly identified. In this case both finalists for the Ombudsman position were internal applicants from OHSU and OHSU has raised no individualized privacy interest that these particular applicants might have in their interest in this position. So, even if potentially valid in the abstract, this argument cannot stand as applied to this case.

² This is a different standard than when evaluating conditional exemptions under ORS 192.345 or the fee waiver decisions under ORS 192.324(5).

ORDER

Accordingly, the petition is granted. OHSU shall promptly provide to petitioner the resumes and cover letters of the two finalists for the position of ombudsman. This production is subject to the payment of fees, if any, not to exceed those authorized by ORS 192.324(4) and the redaction of any personal contact information for the applicants.

Very truly yours,



MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

Notice to Public Agency

Pursuant to ORS 192.411(2), 192.415, and 192.431(3) your agency may become liable to pay petitioner's attorney's fees in any court action arising from this public records petition (regardless whether petitioner prevails on the merits of disclosure in court) if you do not comply with this order and also fail to issue within seven days formal notice of your intent to initiate court action to contest this order, or fail to file such court action within seven additional days thereafter.