



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

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October 20, 2022

Maureen Wright  
mwright@pcc.edu [via email only]

Re: Petition of Maureen Wright requesting production of faculty salary data

Dear Ms. Wright:

On October 7, 2022 you submitted a petition to this office asking that we order Portland Community College (PCC) to produce to you an electronic spreadsheet containing specific data relating to PCC academic staff seniority and salary. You had originally submitted this request to PCC on August 30, 2022 and had not received a response as required by ORS 192.329(5).

Counsel for PCC, Melissa Rawlinson, responded to your petition by way of a letter dated October 14, 2022, on which you were copied. In that letter Ms. Rawlinson recounts the procedural history of this matter from PCC's perspective, including that their initial review of the request indicated, erroneously, that it was identical to a previous request that you had made, or reiterated, in five different emails in August (August 6, 2022, twice on August 12, 2022, and twice on August 29, 2022). However, your August 30, 2022 request altered the previously stated request by omitting one qualifier and, as such, should have received a different response. PCC has now issued a fee estimate for production of the requested records.

For the reasons elaborated below, we deny your petition.

### **DISCUSSION**

#### **A. Undue Delay – ORS 192.329 & 192.407**

PCC re-reviewed your August 30, 2022, request in light of the appeal to this office. They realized the omission of the sentence that distinguished it from the prior similar request, and, on October 13, 2022, provided you with a fee estimate for production of the requested records. PCC has not denied your request and there is no remedial relief that we could order beyond what they have already done of their own accord.

We do have the authority to impose punitive sanctions for non-compliance with ORS 192.329(5), but that authority is discretionary. ORS 192.407(3). Having reviewed PCC's conduct in the context of the many requests previously made, the remedial action already taken by PCC, and the current posture of the request, we do not find that imposing a sanction would be appropriate.

#### **B. Fees – ORS 192.324(4)**

You further assert that you have pre-paid for public records fees by depositing money into an account held by PCC and asked PCC to debit the fee in this particular case from that

account. In response to the same assertion in a previous public records petition, PCC stated it that it does not have any of your money in its custody. PCC states that although it did previously maintain an account for you, they closed that account in 2017 and returned the money to you by check. In an email to you in June 2022, PCC stated that the check was never cashed. As a result, their finance department would have turned the funds over to the State of Oregon. That email also provided you a link to information on reclaiming that money from the State.

Any dispute regarding disposition of funds previously in PCC's custody is a civil issue, which is not justiciable by this office in a public records petition. There is no statutory mechanism in the public records law for prepayment of fees on account. Absent an ongoing agreement between a public body and a requestor to some other effect, each fee estimate requires individual payment or waiver before a public body is obligated to produce records. ORS 192.329(3)(b) ("if the requester fails to pay the fee within 60 days of the date on which the public body informed the requestor of the fee [...] the public body shall close the request.")

As matters stand now, PCC has quoted you fees, which is a permissible response to a public records request, and those fees have not yet been paid. PCC's obligation to respond to the request is suspended by operation of ORS 192.329(3)(a) pending payment of that fee.

**ORDER**

Accordingly, the petition is denied.

Regards,

A handwritten signature in black ink, appearing to read "Mike Schmidt", with a stylized flourish extending to the right.

MIKE SCHMIDT  
District Attorney  
Multnomah County, Oregon

Cc: Melissa Rawlinson, counsel for PCC