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via email only

Lee Wachocki
Staff Attorney – Oregon AFSCME
lwachocki@oregonafscme.org

D. Raghav Shan
Legal Counsel – OHSU
shanmuga@ohsu.edu

Re: Petition of Oregon AFSCME seeking access to a donation agreement from OHSU

Dear Mr. Wachocki and Mr. Shan:

On September 11, 2025, Oregon AFSCME, a labor union representing certain employees of Oregon Health & Science University (OHSU), submitted a public records request to OHSU for: “a copy of the agreement that led to the \$2 billion donation for the Knight Cancer institute and the subsequent announcement that it is going to become semi-autonomous.” On September 15, 2025, OHSU denied the request, citing ORS 192.355(21). AFSCME then petitioned this office pursuant to ORS 192.422 for an order requiring OHSU to release the requested record.

Prior to this request, on August 14, 2025, OHSU announced that it had received a record-breaking \$2 billion commitment from Phil and Penny Knight to its Knight Cancer Institute.¹ OHSU also stated that the Knight Cancer Institute would become self-governing within OHSU and announced its inaugural president, Dr. Brian Druker. The announcement did not provide any details about how the gift would be structured or the details of how OHSU would operationalize the aspirations articulated in the announcement.

As required by ORS 192.422(2) OHSU has made the contested record available for my review. For the reasons discussed below, I conclude that OHSU has met its burden of establishing that the agreement is exempt from disclosure.

¹ “OHSU Knight Cancer Institute receives record \$2 billion commitment from Phil and Penny Knight,” OHSU News (Aug. 14, 2025) (<https://news.ohsu.edu/2025/08/14/ohsu-knight-cancer-institute-receives-record-2-billion-commitment-from-phil-and-penny-knight>)

DISCUSSION

A. OHSU Sensitive Records – ORS 192.355(21)

ORS 192.355(21) unconditionally exempts from disclosure under the public records law, Sensitive business records or financial or commercial information of the Oregon Health and Science University that is not customarily provided to business competitors.

The Court of Appeals has construed the “business records” and “commercial information” categories under this section but has not had the opportunity to interpret what constitutes “financial information.” *In Defense of Animals v. OHSU*, 199 Or App 160 (2005). As to the former categories, the court stated,

by its terms, we understand the unconditional exemption set out in ORS 192.502(20)^[2] to apply to records or information pertaining to activities of OHSU that are commercial in nature—including medical and scientific research activities if conducted for commercial purposes or in a commercial manner—where the records or information ordinarily would not be provided to either OHSU’s or its business partners’ competitors.

Id. at 173. The court further noted that there is no relevant legislative history for this section. *Id.* at n. 9. As to the unconstrued “financial information” portion, I see no reason for it to mean anything more complicated than “information relating to OHSU’s finances.” “Finances” are “money or other liquid resources of a government, business, group, or individual.”³

I must then determine if the requested document is information relating to OHSU’s finances, that is closely held (i.e. “sensitive”), and that would not ordinarily be provided to competitors in the medical services or research fields.

It is not possible to discuss the contents of the agreement in anything but the highest level of generality in a public facing order. *Turner v. Reed*, 22 Or App 177 (1975) (noting the difficulty of explaining the basis for a decision without being able to discuss the details of the records at issue). The record submitted for my review is a combination of business and financial information relating to the timing and procedural details of the announced commitment as well as related business strategy, financial details, and projections for OHSU and the Knight Cancer Institute.

ORS 192.355(21) is an unconditional exemption, which means that I may not weigh the public’s interest in access to this information. The agreement is sensitive; it is financial information and business records of OHSU; and information of this nature is not customarily provided to competing medical institutions.

² ORS 192.502(20) was subsequently renumbered ORS 132.355(21) without amendment.

³ Merriam-Webster.com Dictionary, s.v. “finance,” accessed October 3, 2025, <https://www.merriam-webster.com/dictionary/finance>.

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel