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via email only

Paul Haugland
paulhaugland@gmail.com

Andrea Schiers
Senior Legal Counsel
Portland Public Schools
aschiers@pps.net

Re: Petition of Paul Haugland seeking the results of an employee health survey conducted by Portland Public Schools

Dear Mr. Haugland and Ms. Schiers:

Petitioner, Paul Haugland, submitted a public records request to Portland Public Schools (PPS) for the results of a “team health survey” performed within the Office of Technology and Information Services (OTIS) in September 2025. PPS asserted that the survey results were exempt from disclosure under the public records law on the ground that the responses were confidential submissions protected by ORS 192.355(4).

Mr. Haugland petitioned this office on May 14, 2026, as permitted by ORS 192.422, asserting that the survey results would corroborate workplace complaints he had previously raised with PPS Human Resources. PPS maintains its position that the results are exempt, arguing that the survey was distributed under assurances of anonymity and confidentiality, that the content of the free-form responses would identify their authors to other members of the OTIS team notwithstanding those assurances, and that disclosure would harm the public interest by chilling future participation in similar employee feedback exercises.

For the reasons discussed below I conclude that ORS 192.355(4) reaches only information that could reasonably identify the person who authored the response. I grant the petition in part and authorize redactions limited to portions of six of the responses.

DISCUSSION

A. Confidential Submissions – ORS 192.355(4)

ORS 192.355(4) exempts from disclosure information submitted to a public body in confidence if all five of the following elements are satisfied:

1. the informant must have submitted the information on the condition that it would be kept confidential;

2. the informant must not have been required by law to provide the information;
3. the information itself must be of a nature that reasonably should be kept confidential;
4. the public body must show that it has obligated itself in good faith not to disclose the information; and
5. disclosure of the information must cause harm to the public interest.

Petition of Brooks, MCDA PRO 24-55 (2024) at 2.

ORS 192.355(4) is the sole ground PPS asserts for withholding the survey results. PPS does not invoke ORS 192.355(1), the internal advisory communications exemption, which is the framework under which the confidentiality of frank communications internal to a public body is ordinarily evaluated.

ORS 192.355(4) “is designed to protect the person submitting the information, not the public body.” ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2024) p. 86. In contrast, ORS 192.355(1) is intended to protect decisionmakers’ access to the unvarnished recommendations of their subordinates. *Petition of Bial*, MCDA PRO 24-57 (2024). The two exemptions have different structures, different conditions, and address different harms.¹

The first and fourth elements of ORS 192.355(4) turn on what PPS represented and whether the survey recipients were motivated by such assurances. The survey itself leads with the statement that respondents’ “responses won’t be tied to you in any way.” The email sent to OTIS by their Senior Director stated:

This survey provides an anonymous opportunity for you to share your feedback with me and the other leaders within OTIS. Please be assured that we are not collecting email addresses, and your responses will remain strictly confidential.

Jazowick Email to OTIS, Sept. 11, 2025. Assuring employees that their responses would remain “strictly confidential” is sufficient to establish those elements here. As to the second element, survey participation was optional. For purposes of argument I assume the third element, “the information is of a nature that should reasonably be considered confidential,” is satisfied and proceed to the fifth, which is dispositive.

Unlike the conditional exemptions in ORS 192.345, which is overcome only by a finding that the public interest requires release, the fifth element of ORS 192.355(4) requires the public body to show that disclosure would harm the public interest to sustain its position. Petitioner

¹ This not to suggest that had PPS asserted the internal advisory communications exemption the result in this case would have differed. A public body attempting to assert this exemption has a tough hill to climb, which may explain PPS’ decision to argue a different exemption in this case. See, for example, *City of Portland v. Oregonian*, 200 Or App 120, 124 (2005)(“Although we do not disagree that most people may be more willing to make candid statements when they know the statements will remain confidential, we are unpersuaded that, in this case, the benefits of confidentiality clearly outweigh the benefits of disclosure.”) Regardless, it was not raised in this case.

acknowledges his interest in the records is at least partially personal: he is a former OTIS employee. But ORS 192.355(4) does not depend on whether there is a public interest in access to the information. PPS must carry its burden of establishing that harm to the public interest would result by its release. A leading Court of Appeals decision applying this exemption in fact involves an individual seeking access to materials in their own employment file. *Gray v. Salem-Keizer School Dist.*, 139 Or App 556 (1996). Here the harm identified by PPS is that release of these survey results would chill future employee cooperation in similar exercises.

In *Gray* a school district withheld two negative employment references from a rejected teaching applicant under what is now ORS 192.355(4), asserting that disclosure would chill future references and harm the public interest in informed hiring decisions. *Id.* at 562-63. The Court of Appeals reversed. It accepted that the assurance and confidentiality requirements were satisfied but held that:

To the extent that the District’s “chilling effect” concern is well-founded, that concern can only pertain to sources’ names or to information tending to disclose their identities. We perceive no reason—and the District offered none—why the disclosure of the reference forms, with source-identifying information deleted, would deter future sources from submitting candid evaluations to the District.

Id. at 565-66. The court ordered disclosure of the full content of the references with redactions limited to source-identifying material: “respondents’ names, addresses, positions, and answers to ‘How long have you supervised the applicant?’” *Id.* at 567.

Each prior order in which this office has applied ORS 192.355(4) has done so using the same source-protective principle. *Petition of Duchêne*, MCDA PRO 15-37 (2016) (code-enforcement complainant identity); *Petition of Biro*, MCDA PRO 24-26 (2024) (same); *Petition of Schnider*, MCDA PRO 26-17 (2026) (same, parking complaint); *Petition of Brooks*, MCDA PRO 24-55 (2024) (confidential applicant identities and the contents of references to the extent source-identifying); *Petition of Budnick*, MCDA PRO 17-38 (2017) (same).

The OTIS survey, like the reference forms in *Gray*, consists of structured rating questions and free-form responses, and was distributed by a public school district under assurances of confidentiality. PPS’s chilling-effect argument is the same argument the school district made in *Gray*. And, as in *Gray*, I conclude that the potential harm is fully addressed by redacting only material that would identify the submitter.

PPS has not identified specific portions of the submitted record it believes are source-identifying. My review shows six free-form responses that could identify the individual respondent to a fellow OTIS team member. Disclosure of those portions would defeat the assurance of anonymity on which respondents relied in agreeing to participate.

As to the remainder of the survey results, PPS has not established that disclosure would harm the public interest.

ORDER

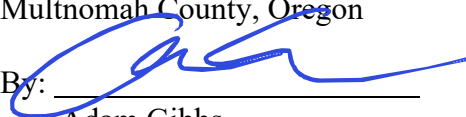
Accordingly, the petition is granted in part. PPS shall promptly disclose the survey results to petitioner, subject to redaction of the following potentially source-identifying material contained in the spreadsheet submitted for my review:

Cell	Approved Redaction
H2	words between "...PPS" and "Due to budget..."
I9	words between "...effect." and "and I'm..."
I14	first sentence of the response
I15	first sentence of the response
I19	the parenthetical in the first sentence of the second paragraph
H23	Words between "...existent." and "when I started..."

This release is subject to the payment of fees, if any, not to exceed those authorized by ORS 192.324(4).

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
General Counsel

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.