Nathan Vasquez, Multnomah County District Attorney

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June 2, 2026

via email only

Jon Bial
Deputy General Counsel
Oregon Public Broadcasting
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D. Raghav Shan
Legal Counsel
Oregon Health & Science University
shanmuga@ohsu.edu

Re: Petition of Oregon Public Broadcasting seeking OHSU's investigative file concerning the termination of OHSU Health CEO Tarek Salaway

Dear Mr. Bial and Mr. Shan:

On April 15, 2026, Oregon Public Broadcasting (OPB) reporter Amelia Templeton submitted a public records request to Oregon Health & Science University (OHSU) for: "OHSU's investigative file on departing OHSU Health CEO Tarek Salaway, including the workplace environment report and full 360 review."

OHSU terminated Mr. Salaway on April 3, 2026, after an investigation into professionalism and communication concerns.[1] In response to a separate records request, OHSU released copies of the nine witness statements given during this investigation with source-identifying materials redacted. Ms. Templeton's request at issue here sought the balance of OHSU's personnel investigation file. OHSU asserts that these materials are exempt from disclosure under ORS 192.345(12). As permitted by ORS 192.415, counsel for OPB petitioned this office challenging that decision.

In response, OHSU acknowledges that the documents Ms. Templeton seeks exist, but maintains they are exempt.[2]

For the reasons below, I grant the petition.

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[1] See, among others, Kristine de Leon, "OHSU removes hospital CEO after only 4 months," The Oregonian (Apr. 7, 2026) (https://www.oregonlive.com/health/2026/04/ohsu-removes-hospital-ceo-after-only-4-months.html)

[2] OHSU further states that its Code of Conduct and Respect for All Guide referenced in the workplace review are responsive and non-exempt. OHSU intends to produce these documents to OPB and they are thus not at issue here.

DISCUSSION

ORS 192.345(12) conditionally exempts from disclosure "[a] personnel discipline action, or materials or documents supporting that action." The records in this case mostly fit within that definition: OHSU terminated Mr. Salaway's employment for disciplinary reasons. The exemption covers investigative materials that led it to take that action.

One of the records, however, the "full 360 report" does not. This document may well have been *relevant* to the ultimate disciplinary action, but OHSU has not met its burden of establishing that it either initiated the disciplinary process or was created as part of it. A document that merely relates to a disciplinary action is not one "supporting" that action; "[t]he word 'supporting' is not a synonym of 'relating to.'" *City of Portland v. Rice*, 308 Or 118, 122 (1989); see *Petition of Augustine*, MCDA PRO 24-51 (2024) (records generated extrinsic to the investigative process, though relevant to it, neither constitute nor support a disciplinary action); *Petition of Budnick*, MCDA PRO 16-07 (2016) (tort-claim notice containing information about disciplinary action not exempt); *Petition of Barnes*, MCDA PRO 17-01 (2017) ("Records such as notes, reports, interviews, and emails that are generated as a part of the investigation clearly qualify as documents supporting a discipline action. As to records created or received in the ordinary course of business prior to the initiation of an investigation the question is less clear.") This report seems to be a routine management evaluation with anonymized feedback from an executive's direct reports; it is not exempt simply because the subject of the report was terminated shortly after its completion.

As to the balance of the records, ORS 192.345(12) is conditional: it only exempts records "unless the public interest requires disclosure in the particular instance." ORS 192.345(12). The withheld records support OHSU's termination of Mr. Salaway and fall within the exemption's terms. The question is whether the public interest nonetheless requires their disclosure.

The Supreme Court supplies the standard. This office "must balance the public's interest in disclosure against the public body's interest in confidentiality, with the presumption in favor of disclosure." *ACLU v. City of Eugene*, 360 Or 269, 280 (2016). OHSU bears the burden of showing that its confidentiality interest overcomes that presumption.

OHSU frames its analysis within the six "*Foster* criteria." *Petition of Foster*, MCDA PRO 96-31 (1997). That is no longer the lens that controls. As this office recently explained:

> The Supreme Court's instruction in *ACLU* now provides the process and presumption for evaluating this question, not Foster. However, while mindful that the presumption is "in favor of disclosure," the questions in *Foster's* analysis remain a useful framework within which to identify and balance competing interests, even if the proscriptive language about what "should" or "should not" be disclosed is less useful in light of ACLU.

Petition of Shaikh, MCDA PRO 25-27 (2025). *Foster*'s questions may still help identify the competing interests, but its categorical sorting of what "should" and "should not" be disclosed does not survive *ACLU*'s presumption. OHSU's response inverts the framework: it treats the *Foster* guidelines as a checklist that, unmet, defeats disclosure. Under *ACLU*, the presumption runs the other way, and OHSU must overcome it.

I agree with OPB. It is difficult to conceive of a stronger case for the public interest than the removal, by the institution, of the chief executive of OHSU Health after less than four months. OHSU is among the largest public institutions in Oregon, and its health system's leadership is a matter of genuine public consequence. The public's interest is not in the bare fact of a personnel action, which is already known, but in understanding how and why OHSU's president concluded that its newly hired hospital chief executive could not continue in the role.

OHSU's contention that professionalism and communication concerns are not "serious misconduct" under *Foster* guidelines 1 and 2 does not resolve the balance. Even accepting OHSU's characterization of the underlying conduct, conduct serious enough to lead OHSU to terminate its chief executive within months of hiring him bears directly on the public's understanding of how OHSU is managed, the very interest *Foster*'s sixth guideline identifies.

OHSU argues that the disciplined subject's rank and responsibility alone is insufficient to require disclosure. This is true as far as it goes. Compare *Petition of Willamette Week (Damewood)*, MCDA PRO 13-15 (2013) (police captain's "position as a command officer is a factor that weighs in favor of public disclosure. However, we agree with the city that just because an employee is in a command or high level position disclosure of an investigation is not automatic.") with *Petition of The Oregonian (Bernstein)*, MCDA PRO 11-11 (2011) (finding termination of police union president warranted disclosure due, in part, to position of authority held by the former employee).

OHSU relies on *Petition of Monahan*, MCDA PRO 18-09 (2018), to support its claim of exemption. In *Monahan*, the petitioner sought records concerning the termination of a staff assistant in Multnomah County Commissioner Loretta Smith's office. She argued that Commissioner Smith's profile as an elected official, and declared candidate for another elected office, created a public interest in her subordinate's brief tenure. This office denied the petition because the records concerned the discipline of the staff assistant, not the Commissioner, and held that the Commissioner's status "creates a heightened public interest in *her* actions," not in a subordinate's personnel file. *Id.* at 3 (emphasis added).

That distinction decides this case the other way. Here the subject of the investigation and the personnel action is not a subordinate of the apex leader in the department; it is the leader. The heightened public interest that *Monahan* identified in the principal's own actions attaches directly to these records. These records are about the principal's own conduct and removal. *Monahan* declined to extend a high-ranking official's profile to a staffer's discipline; it does nothing to shield the official's own. While *Damewood*, 13-15, declined to order disclosure, it did so in part because the misconduct itself was minor and no discipline was, in fact, imposed. This case is more like *Bernstein*, 11-11, a for-cause termination of an organizational leader.

ORDER

Accordingly, the petition is granted. OHSU shall produce the 360 review because it is not subject to ORS 192.345(12). OHSU shall produce the remaining documents because the public interest overcomes the conditional exemption in ORS 192.345(12) on these facts.

This release is subject to redaction to remove the names, and immediately source-identifying information (i.e. job title if not generic), of witnesses who gave statements to the investigators.

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.

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