



Nathan Vasquez, Multnomah County District Attorney

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via email only

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Re: Petition of Barbara Spears concerning Multnomah County Animal Services'
denial of a request for applications for the Shelter Director position

Dear Mr. Kessler and Ms. Rodriguez:

On June 9, 2026, Barbara Spears requested from Multnomah County Animal Services (MCAS) "all applications for Multnomah County Services Shelter Director received from 6/1/2026 to date." On July 7, MCAS denied the request, citing ORS 192.355(2), which exempts from disclosure under the public records law certain information of a personal nature.

Counsel for Ms. Spears submitted a petition to the district attorney on July 9 under ORS 192.415 seeking an order compelling MCAS to provide the requested information. MCAS provided some of the responsive records for my review pursuant to ORS 192.422(2).

ORS 192.355(2) can reach employment applications in certain circumstances. However, for the reasons discussed below, I do not find that MCAS has established the necessary prerequisites to doing so on this record.

DISCUSSION

A. Job Applications Generally

This office has addressed the question of public disclosure of job applicants' application materials on multiple occasions. Depending on the particular facts of each case we have found some subject to disclosure and others not. See, e.g., *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); *Petition of Sykes*,

Those results turn less on the facts of each recruitment than on which exemption the public body asserted, and the two run on different tracks. Most were resolved under the confidential submission exemption, ORS 192.355(4), which a body reaches only if it solicited the applications, or certain information in the application, on a promise of confidentiality. Bodies that put evidence of harm to the public interest in the record prevailed. *Budnick/Wilson* (candidates in earlier recruitments withdrew on learning their names would be released). Bodies that argued the chilling effect in the abstract did not. *Sykes; Beaven*. We have also found that where public bodies assured applicants they would keep their personal contact information confidential to the extent permitted by law, that information could be withheld under ORS 192.355(4). *Hudson*.

The personal privacy exemption asks something else. It looks to the privacy of particular applicants, requires a showing as to each, and makes the requester's anticipated use of the records potentially relevant. *Jordan*, 308 Or at 444 (Gillette, J., concurring). A body that neither obtained confidentiality requests nor gave assurances is confined to that inquiry.

B. Personal Privacy — ORS 192.355(2)(a)

MCAS asserts that the applications in this case are exempt under ORS 192.355(2)(a), which provides that:

Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

This section asks three questions in sequence: whether the information is personal; whether disclosure would unreasonably invade privacy; and, if both are yes, whether the public interest nonetheless requires disclosure. *Jordan v. MVD*, 308 Or 433, 440 (1989). The first two belong to the public body, and only when it answers both with evidence does the burden shift to the requester. *Mail Tribune, Inc. v. Winters*, 236 Or App 91, 96 (2010). The evidence must be individualized. *Guard Publishing Co. v. Lane County School Dist.*, 310 Or 32, 39–40 (1990) (a blanket rule of nondisclosure is “antithetical to the legislative intent reflected in” the public records law and is unenforceable). Category-level assertions fail “because they do not establish individualized bases for nondisclosure.” *Mail Tribune*, 236 Or App at 96.

Two threshold matters are readily resolved: First, an applicant's name and contact information are indeed personal. *Jordan*, 308 Or at 441 (“We are not writing here about a person's right of privacy, but simply the generic definition of what is or is not personal information.”) Second, as a category, the release of job applicant identities or application information does not unreasonably invade privacy.

MCAS offers two alternative arguments that release in this case would unreasonably invade privacy and also argues that petitioner cannot establish that the public interest requires release.

i. Release to this specific requester may result in harassment

The County's first argument is that this requester will use the applications to contact and harry the applicants. *Jordan*, 308 Or at 444 (Gillette, J., concurring) (disclosure constitutes an unreasonable invasion where the agency's release, "or the acts of those to whom the information is released," are reasonably anticipated to lead to one); *Petition of Riddell*, MCDA PRO 20-18 (2020) (exemption sustained on a declaration from the deputy fire marshal setting out the specific history between the requester and the person named). *Jordan* rested on the subject's written notice to the agency and her affidavit detailing the requester's history of stalking behavior directed at her. 308 Or at 442–43. Justice Gillette identified the same requirement as a limit on the rule he endorsed: the justifying information "is normally going to need to be very specific," and "[a] general desire 'to be let alone' [...] will not be sufficient." *Id.* at 444–45.

¹The County offers that petitioner is "a well-known requester of MCAS records," that she "uses identifying information in records produced to contact named individual unsolicited," and that MCAS "has had complaints about these contacts and, upon information and belief, believes Ms. Spears will use identifying information found in applicant materials to contact and harry the applicants." The County may be right. But information and belief in the absence of a factual record tied to the specific individuals who submitted the records the County seeks to withhold, or the specific acts of the person requesting them toward similarly situated individuals, does not meet the County's burden.

ii. Public release of the fact a person has applied for a County job would chill future qualified candidates for similar positions

In the County's supplemental submission it advances the second argument that revealing an applicant's identity could threaten that person's standing with a current employer, and that the prospect of disclosure will deter qualified people from applying to the County in the future. While this is potentially true as to certain applicants, the assertion is again made as to every applicant at once. The County does not contend that any applicant requested confidentiality or that MCAS promised it. *Petition of Stoneburg*, Att'y Gen. PRO (Oct. 14, 2022) (exemption sustained as to the three applicants who expressly requested confidentiality and rejected as to the two who had not). Indeed, that logic cannot hold as to the entire applicant pool, as certain applications are from current County employees.

The County relies on *Letter of Advice to W.T. Lemman* (OP-6248) (Oct. 13, 1988), whose reasoning traces to *Petition of Dean*, Att'y Gen. PRO (Aug. 12, 1988), in which the Attorney

¹ I recognize the difficulty presented by collecting such information from all involved individuals after a records request has been submitted or after a petition has been filed. "That practical reality does not, however, alter the clear requirements of the law." *Petition of Schmidt*, MCDA PRO 15-31 (2015). The categorical denial of a records request can often leave a public body in a poor position to defend it on an individual basis on the short timelines available on appeal.

General concluded that the identities of nonfinalist applicants for Chancellor of Higher Education were exempt because revelation “may unreasonably threaten the person’s current employment relationship and professional standing.” Both predate *Guard Publishing. Petition of Perkowski*, Att’y Gen. PRO (Nov. 1, 2016), has since held that this rationale reaches an applicant only through “an individualized showing for each applicant.”

Dean was decided on a showing that “all applicants for the chancellor position requested that their applications be treated confidentially.” *Lemman* answered the Chancellor’s written report of what early publicity did to his candidate pool, and its conclusion tracked that report: “the information you have provided shows that early release of the names of candidates would be contrary to the public interest.” *Lemman* also states that “neither names nor home addresses of individuals as a class are personal,” and it tells a public body how to build the confidentiality record: ask applicants in writing whether they want the fact of their application held in confidence, then oblige itself in writing.²

iii. *Petitioner has not established that the public interest requires disclosure.*

I do not need to reach the third question presented by ORS 192.355(2): whether the public interest requires disclosure. MCAS’ request that I direct Ms. Spears to show that release would not unreasonably invade privacy inverts the sequence. Her burden is triggered by the County’s showing, not substituted for it. *Mail Tribune*, 236 Or App at 96 (“If the public body produces evidence to satisfy those criteria, the burden shifts to the party seeking disclosure”); *Perkowski* (the public body “must make an individualized showing for each applicant” and “must then give” the requester the opportunity to make the countervailing showing).

C. Records Not Provided for Review – ORS 192.422(2)

ORS 192.422(2) provides,

Promptly upon receipt of such a petition, the Attorney General or district attorney shall notify the public body involved. The public body shall thereupon transmit the public record disclosure of which is sought, or a copy, to the Attorney General, together with a statement of its reasons for believing that the public record should not be disclosed.

² I do not suggest by this that adopting a universal practice of doing this would shield applicant identities under the current state of the law. Indeed, the Attorney General has more recently expressly said it does not:

If such a generalized inference were allowed under the public records law, it would have the effect of establishing a blanket policy that applications would be made exempt under personal privacy exemption by simply providing assurances of confidentiality to applicants. As discussed above, however, such blanket policies are not permitted under the public records law – the application of the personal privacy exemption to employment applications requires public bodies to make an individualized determination for each candidate as to whether disclosure would constitute an unreasonable invasion of privacy.

Stoneburg at 3. But by doing so, a public body would make available to it an argument under ORS 192.355(4), which does not require an individualized privacy showing.

I requested the responsive records from MCAS three times: once in the initial cover letter for the appeal sent on July 10, 2026, a second time on July 16 after receiving MCAS' initial response, and a third time on July 24 when MCAS sought additional time to respond. After the third request, MCAS submitted to me a cover sheet for each application showing name, contact information, and other information such as whether a veteran's preference was asserted. From personal knowledge of the County's human resources infrastructure, this appears to be an export from Workday. What it did not include were resumes or cover letters that were attached as part of most if not all of these applications.

Some public records exemptions can be established as a matter of law, and district attorney review of the records is not necessary for a public body to meet its burden. Others, such as ORS 192.355(2), require individualized, fact-specific showings. The Supreme Court has made clear that I may not uphold a blanket assertion of ORS 192.355(2).³ Even assuming MCAS established that disclosing the identities of and contact information for these applicants to this requester would constitute an unreasonable invasion of their privacy, the substance of the cover letters or resumes, to the extent they could be anonymized, would not. ORS 192.338 requires segregation of exempt and non-exempt material for exemptions that protect only "information" as opposed to the entirety of a record.

In the absence of any resumes or cover letters having been provided for review, I cannot conclude as a matter of law that their release would unreasonably invade their authors' privacy.

D. Timeliness and Fees — ORS 192.329, 192.407

Petitioner additionally requests a punitive fee waiver as a result of MCAS' delay in denying her request and a technical deficiency in the form of its denial. MCAS responded 19 business days after receiving the request, which is past the 15 business day timeline set by ORS 192.324(2) and ORS 192.329(5). I am required by ORS 192.407(1)(a) to consider this a denial of the records request. That is not particularly relevant here because the County completed its response to the request shortly after, and prior to the petition for my review. I do not need to find a statutory denial because there was an actual denial.

Petitioner also, accurately, observes that MCAS' denial omitted the review-rights statement ORS 192.329(2)(f) requires. This did not prejudice petitioner. She is both a veteran of the public records appellate process and is represented by counsel also fluent in the procedural process of public records litigation.

³ I recognize that many if not most people would find the release of their personal contact information from a public employment job application surprising and disagreeable. MCAS has raised only ORS 192.355(2) and we are bound by the Supreme Court's highly restrictive construction of that section. In *Guard Publishing* the district had promised replacement teachers hired during a strike that it would keep their names and addresses confidential, and after receiving the request it polled them individually, most declining disclosure. Neither the promise nor the responses could sustain a blanket claim that all information would be withheld. 310 Or at 39–40.

This is not a case where I will order a punitive fee waiver. However, the fees necessary to produce these records should be minimal, as I am ordering them released without redaction apart from the narrow category described below.

E. Public Employee Contact Information – ORS 192.355(3)

It is not my role to assert on behalf of a public body exemptions it did not raise. A public body is usually free to choose not to assert an exemption that might apply. However, there are certain categories of information where redaction is mandatory. Releasing such information under the public records law without such redaction would be unlawful. In such a case, I will not put a public body in the untenable position of choosing between violating the law and incurring the expense (and added delay to the production of records) of continued litigation.

ORS 192.355(3) exempts a public body employee's residential address, residential and personal cellular telephone numbers, personal electronic mail address, driver license number, employer-issued identification card number, emergency contact information, Social Security number, date of birth, and other telephone numbers contained in records maintained by the public body that employs them. Under the circumstances of this request, and the procedures set out in ORS 192.363, the County may not disclose the personal contact information of its own employees contained in these job applications.

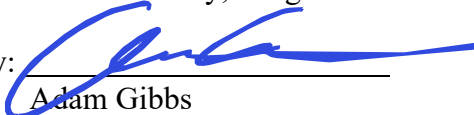
ORDER

The petition is granted. The County shall promptly produce the applications responsive to the June 9, 2026 request or issue notice of its intention to institute proceedings for injunctive or declaratory relief. ORS 192.411(2); ORS 192.415. The County is authorized to redact ORS 192.355(3) information from any application submitted by a Multnomah County employee.

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

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Notice to Public Agency

Pursuant to ORS 192.411, 192.415, and 192.431(3), your agency may become liable to pay petitioner's attorney fees in any court action arising from this public records petition (regardless of 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.