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July 27, 2026

via email only

Julianne Theobald
jultheo@pdx.edu

Krista Stearns
Associate General Counsel
Portland State University
krista6@pdx.edu

Re: Petition of Julianne Theobald concerning Portland State University's denial of a public interest fee waiver and the reasonableness of its fee estimate

Dear Ms. Theobald and Ms. Stearns:

Julianne Theobald, a student at Portland State University (PSU), submitted a public records request to PSU on June 17, 2026, seeking multiple categories of information concerning the privacy and security vetting of third-party software platforms used in PSU coursework. PSU confirmed it did not have contracts with most of the vendors identified in the request and produced the one that it did have at no charge. Petitioner and PSU agreed on specific search terms to complete the balance of the request.¹ PSU estimated the cost of locating, reviewing, and redacting (if necessary) the remaining documents at \$3,232.70, and denied petitioner's request for a public interest fee waiver.

Petitioner seeks review of the fee waiver denial, as permitted by ORS 192.324(6), arguing:

- 1) that PSU unreasonably denied the fee waiver because release of the requested email records primarily benefits the general public;
- 2) that the estimate is unlawful because it charges for attorney "legal review;" and
- 3) that the estimate is unreasonable because it uses an executive rate for clerical work.

For the reasons discussed below, I deny the petition.

¹ For May 1, 2026 to June 17, 2026, from six identified PSU email accounts, any emails that matched any of the following search terms:

"PHL/WS 373", "UNST-421", "63227", "Multimedia Production Team", "Padlet", "Blogger", "Google Spreadsheet", "Canvas external link", "Canvas redirection," "third-party tool", "third party platform", "unvetted", "privacy compliance", "FERPA", "OCA", "student data privacy", "accessibility", "video upload", "facial recording", "approved software list", "authorized registry", "approved software."

DISCUSSION

A. Fee Waiver — ORS 192.324(5)

A public body may waive or reduce its fees for responding to a public records request when it determines that doing so is in the public interest. ORS 192.324(5) provides:

The custodian of a public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

The statute sets out a two-step inquiry: the public body first determines whether disclosure would primarily benefit the general public. If it would, the body then balances the burden of producing the records against the identified public interest to inform its ultimate decision to waive, reduce, or maintain its fee. *Petition of Brosseau*, MCDA PRO 17-21 (2017); ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2024) at 20 (a public body should consider “(1) the character of the public interest in the particular disclosure, (2) the extent to which the fee impedes that public interest, and (3) the extent to which a waiver would burden the public body.”)

Petitioner argues that the public interest in this case is in exposing systemic institutional noncompliance with student data privacy procedures. She states that because PSU has admitted it does not have contracts with many of the companies whose software its staff require students to use, review of the emails concerning them is critical to inform this interest. Lastly, she argues that the public should be interested in “irregular administrative workflows” and PSU’s “systemic fail[ure] to secure student identity data, IP addresses, and academic records from third-party corporate data mining.” As examples, petitioner describes her experience in a course and offers a grievance she filed with the U.S. Department of Education’s Student Privacy Policy Office.

The materials submitted do not clearly describe how the particular email search terms requested would illuminate these questions any more than PSU’s no-cost-to-petitioner acknowledgment that it lacks contracts with the software providers petitioner is concerned about. PSU could reasonably have concluded on this record that the email search advanced a personal interest of petitioner’s in furtherance of her own complaint against PSU.

As part of its consideration of the benefit to the public, a public body also looks to the requestor’s ability to meaningfully disseminate information:

Regardless of how interested the public may be in the matter the requested records relate to, if the requester fails to demonstrate the ability to meaningfully disseminate the information, disclosure will not primarily benefit the public.

ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2024) at 19. Petitioner states that she has “direct access to local investigative journalists, student-run press networks, and regional educational privacy advocacy groups.”

Petitioner argues that a public interest waiver is available to “any person” and that she need not be a journalist, or name the outlets she intends to work with, to qualify. A requestor without an institutional media association will certainly have a harder time establishing their ability to

meaningfully disseminate information to the public, but it is not impossible. In *Petition of Strachan*, MCDA PRO 23-152 (2023), a non-journalist requestor was found to have met this standard by developing contacts with media that resulted in the publication of information he sourced in a major publication on the topic of the records request. Here petitioner's general assertion of access to journalists and advocacy groups, without any record of actually reaching the public through them, does not. See *Petition of Maynard*, Att'y Gen. PRO (July 3, 2014) (low-readership blog insufficient); *Petition of Ranweiler*, Att'y Gen. PRO (August 31, 2020) (intent to post files to internet file-sharing sites insufficient); *Petition of Lian Zhu*, MCDA PRO 25-04 (2025) (stated intent to build a website compiling course and instructor data insufficient); *Petition of Joyce Boles*, MCDA PRO 10-01 (2010) (denying a waiver where the petitioner offered no justification "beyond the fact that she intends to build a newspaper/website").

PSU could reasonably have concluded that petitioner's stated access to various media outlets did not demonstrate an ability to meaningfully disseminate information to the public.

B. Fee Estimate — ORS 192.324(4)

Petitioner also asserts that the charge for one hour of "legal review" violates ORS 192.324(4)(b). It does not. That provision expressly permits a public body to recover the cost of time spent by an attorney "in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records." What it excludes is the cost of an attorney's time spent determining the application of the public records law (i.e. performing legal research to inform the public body's response).

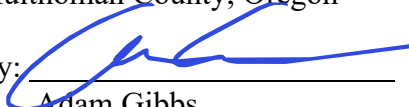
The remainder of petitioner's objection, that \$82.59 per hour is an inflated "executive rate" for what she describes as a "routine keyword search," is outside my authority to decide. Under ORS 192.324(6) I may review the reasonableness of the denial of a fee waiver or reduction; I may not determine whether a fee estimate accurately states the cost to produce the record. *Petition of Kessler*, MCDA PRO 23-156 (2023) ("the Attorney General determined that there is no statutory authority for their office, or by extension the district attorney, to review the factual accuracy or reasonableness of a public body's fee estimate.")

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel