



Nathan Vasquez, Multnomah County District Attorney

1200 SW 1st Avenue, Suite 5200, Portland, OR 97204-1193
P: (503) 988-3162 | F: (503) 988-3643 | www.mcda.us

August 28, 2026

via email only

Faythe Aiken
faythe.aiken@gmail.com

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

Re: Petition of Faythe Aiken concerning the sufficiency of Portland Public Schools' response to a public records request

Dear Ms. Aiken and Ms. Schiers:

On April 6, 2026, Faythe Aiken submitted a public records request to Portland Public Schools (PPS) for “[a]ll communications of any form (any form of email, text, or direct messaging or other messaging formats used by the district)” concerning staffing cuts and blended classrooms at Ainsworth Elementary School. Public Records Request (Apr. 6, 2026). The request limited its scope to communications sent to or from two named PPS employees, supplied fourteen keywords, and set a timeframe of February 15, 2026 to present. On July 30, 2026, PPS produced responsive records, with redactions identified on an accompanying chart.

Ms. Aiken petitioned this office on August 17, 2026, as permitted by ORS 192.422, asserting that the production is incomplete and challenging one redaction. The petition asks that the redaction on page 474 of the production be narrowed so that “only the names of students are withheld.” It further seeks any Google Docs, Google Sheets, or Google Forms “used as a means of communication” by the two named employees, and specifically calls out:

- the “4th/5th Grade Blended Classroom Guidance” document linked in an email produced at page 2,
- internal chat messages,
- any response to a February 18, 2026 email appearing on page 2, and
- responses to a Google Form used to gather community questions about the proposed cuts.

PPS provided the disputed redaction for my review pursuant to ORS 192.422(2). It further responds that its search captured every communication within the parameters of the request and that the remaining items are either outside those parameters or do not exist.

For the reasons below, the petition is denied.

DISCUSSION

A. The Page 474 Redaction — FERPA

PPS redacted a single sentence from the email exchange at page 474, citing the federal Family Educational Rights and Privacy Act (FERPA). Petitioner does not object to withholding student names but contends that the balance of the sentence does not meet the threshold for exemption for FERPA via ORS 192.355(8).

FERPA is incorporated into the public records law by ORS 192.355(8), which exempts from disclosure:

Any public records or information the disclosure of which is prohibited by federal law or regulations.

FERPA in turn prohibits “the release of education records (or personally identifiable information contained therein [...]) of students.” 20 U.S.C. § 1232g(b). “Personally identifiable information” reaches well beyond a student’s name. It includes the names of the student’s family members and “[o]ther information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.” 34 C.F.R. § 99.3. The test is a practical one: redaction defeats FERPA only when it actually renders the record non-identifying. Compare *Petition of Marshall*, MCDA PRO 24-30 (2024) (ordering release of parental consent forms for special education evaluations once redacted to letterhead, form title, and date), with *Petition of Gazaway*, MCDA PRO 22-33 (2022) (finding the date of a police officer’s exit interview identifying, given the ease of connecting it to a particular retirement).

I have reviewed the unredacted sentence. It describes information about an identified parent’s student and discusses the details of that student’s educational interactions with the district. The parent’s name is itself personally identifiable information of the student under 34 C.F.R. § 99.3, and the rest of the sentence is linked to the student it describes. The redaction PPS applied is no broader than the exempt material.

B. Google Documents — Scope of the Request

Petitioner next seeks Google Documents “used as a means of communication” between district staff, reasoning that if the named employees were communicating about the staffing decisions through shared documents, those documents fall within her request. PPS responds that “the District does not understand a Google document on its own to be a ‘communication,’” and that a document linked within an email is not attached to that email.

PPS’s interpretation of the request was reasonable. The request sought communications, and it defined the forms a responsive communication could take: “email, text, or direct messaging or other messaging formats used by the district.” A Google Document is not “messaging format;” it is a document. When a Google Document is shared, the communication is the notification email that the platform generates, and emails of that kind were within PPS’s search. While it is certainly possible for serial edits to a shared document to be used to communicate, and such a document

would be subject to the public records law like any other document, PPS reasonably construed the request here to seek established channels of communication used by PPS staff: email, chat messages, and text messages.

Nor is a link to a document an “attachment” to the email containing the link. An attached file travels with the message: it is transmitted to the recipient, preserved with the email, and fixed in the form it had when sent. A linked document does not travel anywhere. The email carries only a pointer to a document that resides elsewhere and whose content may be revised long after the email is sent. Producing the email produces the entire communication; the linked document is a separate record.

To be clear, the Google documents petitioner describes, if extant, are public records. A writing that contains information relating to the conduct of the public’s business, that PPS prepared, owns, uses, or retains, is a public record whether on paper, on a hard drive, or in cloud storage. Had the request sought “documents” or “files” and specified search parameters that included these documents, rather than communications in enumerated messaging formats, these documents would have been responsive.¹ A petition to the district attorney challenges a public body’s response to the request made; it is not an opportunity to expand or clarify a request.

C. Sufficiency of the Search

The remaining points in the petition reduce to a single proposition: petitioner believes that more records exist than PPS produced. As to internal chats, PPS states that it searched its direct-messaging channels, identified one responsive message, and produced it. As to a response to the February 18 email, PPS states that none exists within the parameters specified in the request. As to the Google Form, PPS explains that the form itself contains none of the request’s keywords, and that any form response reaching a named employee by email with one of the keywords would have been captured by the search already run.

A statement that a public body does not possess a requested record is a response the public records law expressly permits. ORS 192.329(2)(d). The accuracy of such a response is beyond the scope of my review. *Petition of Kessler*, MCDA PRO 18-28 (2018) (this office is not “equipped or empowered” to evaluate a public body’s assertion that it possesses no additional responsive records).

Petitioner reasons from the Google Form, which she notes was shared widely, that responsive communications may exist and were withheld. PPS states that no submission generated a communication meeting all of the request’s parameters (sent to or from one of the two named employees, containing a keyword, within the timeframe). As above, the public records law does not give petitioner, or this office, the tools necessary to test the accuracy of that assertion in this forum.

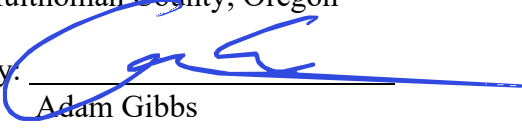
¹ Such a request might also have incurred additional costs for identifying and reviewing these additional categories of records. ORS 192.324(4).

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel

26-64