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via email only

Michael Jacobson
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D. Raghav Shan
Legal Counsel
Oregon Health & Science University
shanmuga@ohsu.edu

Re: Petition of Michael Jacobson concerning Oregon Health & Science University's responses to two public records requests

Dear Mr. Jacobson and Mr. Shan:

In May 2026, Michael Jacobson submitted two public records requests to Oregon Health & Science University (OHSU) concerning its MD/PhD program. Request 26-218, submitted May 2, sought specified email communications involving Beth Habecker, Ph.D., chair of OHSU's MD/PhD Admissions Committee, and other identified OHSU officials. Request 26-219, submitted May 4 and narrowed by Mr. Jacobson on May 12, sought records of OHSU's communications with accrediting bodies and with the National Institutes of Health (NIH) concerning admissions, trainee selection, and governance of the program.

Request 26-218 remains open. OHSU extended its estimated completion date several times, most recently to October 12, 2026, and did not meet that date. In early October, OHSU discovered that its public records coordinator had conflated the request with another and gathered records that were nonresponsive. The coordinator went on unexpected leave at about the same time. On October 22, OHSU told Mr. Jacobson that a new search had identified more than 400 pages to be reviewed and that it expected to respond by November 6.

As to Request 26-219, OHSU directed a search of the email accounts of the three current and former program directors Mr. Jacobson had named, using five search terms tied to the program and its NIH training grant. After extending its estimated completion date several times, OHSU released three compilations of email and one admissions document on September 15 and closed the request as complete. That same day, Mr. Jacobson responded that the production did not include the most recent accreditation submission or the T32 competing renewal application, and asked whether OHSU had searched for them. OHSU declined to answer the questions about its process, stating that "no responsive record identified in OHSU's search was withheld" and inviting him to submit a new request if he sought additional documents.

Mr. Jacobson petitioned this office on October 19, 2026, as permitted by ORS 192.407, contending that OHSU's repeated extensions on both requests amount to unreasonable delay. He asks that OHSU be required to explain the work remaining on each request, that it be ordered to

complete both responses within seven days, and that I consider fee relief or other sanctions under ORS 192.407.

For the reasons below, I find that OHSU has unduly delayed its response to Request 26-218, and that its response to Request 26-219 has not yet addressed the two categories of records that request, as narrowed, sought.

DISCUSSION

A. Request 26-218 — Undue Delay

OHSU acknowledges that its response is late and asks that I weigh the processing error, the coordinator’s leave, and its corrective work in assessing both reasonableness and remedy. It has also elected not to charge Mr. Jacobson for approximately \$350 in additional staff time.

A public body must complete its response to a records request “as soon as practicable and without unreasonable delay.” ORS 192.329(1). If I find that the public body has unduly delayed its response, ORS 192.407(3) permits me to order a response within seven days or another period I find appropriate, and to waive or reduce fees.

This request has been open since May. OHSU relies on ORS 192.329(6), which provides that the time periods in ORS 192.324 and ORS 192.329(5) “do not apply to a public body if compliance would be impracticable because * * * [t]he staff or volunteers necessary to complete a response to the public records request are unavailable.” ORS 192.329(6)(a). The public records coordinator’s leave began in early October, five months into the request. An unexpected leave can certainly be disruptive to a small department. I well know the importance of a public records coordinator, and I agree that ORS 192.329(6)(a) would justify some additional time after the leave began. The leave does not explain the five months before it.

A deadline of seven business days is appropriate here. As to the requested financial sanction, OHSU has already elected not to charge Mr. Jacobson for approximately \$350 in additional staff time on this request. I find that an appropriate financial concession by OHSU under the circumstances and order no further fee relief.

Petitioner further requests that I order OHSU to describe the work remaining on the request. This is not within my authority to do under the Public Records Law. *Petition of Barnes*, MCDA PRO 26-35 (2026) (“[t]he legislature did not include a duty to particularize the search”).

B. Request 26-219 — Scope of the Request

OHSU argues that it completed the request on September 15 after a reasonable search for the communications the request described, that institutional copies of a grant application or accreditation submission are not, by themselves, become responsive “communications,” and that Mr. Jacobson’s challenge to the completeness of its search is beyond this office’s authority.

OHSU treats Mr. Jacobson’s objection to its September 15 production as a challenge to the thoroughness of its search. If that were the dispute, OHSU is correct that this office could not resolve it. *Petition of Saltzman*, MCDA PRO 26-67 (2026) (whether a public body’s statement that

its response is complete is factually accurate is beyond the scope of this office’s review). It is not. Mr. Jacobson does not contend that OHSU missed emails in the mailboxes it searched, or that more emails exist. He contends that the request asked for multiple *kinds* of records, and that OHSU only searched for one: emails. OHSU acknowledges the scope of its search—the only point for my decision is the reasonableness of OHSU’s interpretation of petitioner’s request. That I may do without resolving contested issues of fact and consistent with the prior decisions cited by OHSU.

A requester seeking communications between two organizations ordinarily means the messages exchanged between them (emails, letters, texts, and chat messages). OHSU’s point that an institutional copy of a grant application is not within the ordinary meaning of “communications” is well taken in the abstract. This request, however, expressly defined “communications” and the reasonableness of OHSU’s interpretation of its scope must be measured against that definition. *Petition of Aiken*, MCDA PRO 26-64 (2026) (request defining communications as email, text, or messaging did not reach shared documents). As originally submitted on May 4, each part of the request described what its “communications” included. The accreditation part provided:

This includes, but is not limited to: emails, letters, reports, self-studies, accreditation submissions, site visit materials, and responses to accreditor inquiries.

The NIH part provided:

This includes grant applications (e.g., T32 submissions), progress reports, correspondence, reviewer comments (if available), and institutional responses.

The May 12 amendment kept the same operative language for each part, “[a]ll records of communications between” OHSU and the accreditor or NIH, and replaced each list with a narrower one:

This includes only accreditation submissions. Please limit the search to the most recent accreditation submission.

* * * * *

This includes only grant applications (e.g., T32 submissions).

Mr. Jacobson reduced the categories of records he sought to “accreditation submissions” and “grant applications.” That is, he removed from the scope of the request: emails, letters, reports, self-studies, site visit materials, responses to accreditor inquiries, progress reports, correspondence, reviewer comments, and institutional response. I cannot conclude that a definition that included “emails” as the first item of a list, subsequently narrowed to include only two of the non-email items, can be reasonably interpreted to only require a search of emails.¹

¹ Best practice in such a situation is to confirm the scope and terms of a search with the requester prior to running it. Had the parties confirmed the search parameters before OHSU began its search in July, the question presented here would likely have been resolved months ago. See, e.g., *Petition of Eubanks*, MCDA PRO 26-14 (2026) (the public body proposed search terms, accepted the requester’s revisions, and only then ran its search).

As to the “most recent accreditation submission” and the “grant applications,” OHSU has not provided one of the responses that ORS 192.329(2) contemplates in the nearly five months it has had this request open.² That is unreasonable delay under ORS 192.329(1) and 192.407(1)(a).

ORDER

Accordingly, the petition is granted. Pursuant to ORS 192.407(3)(a), OHSU shall complete its response to Request 26-218, within seven business days of this order, that is, on or before November 5, 2026.

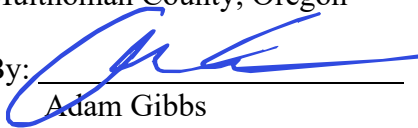
Also within seven business days of this order, OHSU shall complete its response to Request 26-219 as to the most recent accreditation submission and the responsive grant applications.

The release of records under Request 26-219 is subject to the payment of fees, if any, not to exceed those authorized by ORS 192.324(4). The issuance of a fee estimate to search for these other categories of records under this request tolls this period as provided in ORS 192.329(3)(a).

Nothing in this order requires the production of any particular record, which may or may not exist. This order sets a timeline under ORS 192.407(3)(a) for OHSU providing the response required by ORS 192.329(2) as to each item requested by Mr. Jacobson.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
General Counsel

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.

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² On the calendar it has been pending for nearly six months, however the roughly four weeks during which details of payment were outstanding do not count against OHSU. ORS 192.329(3)(a).