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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

| | | |
|---|---|---|
| OREGON HEALTH & SCIENCE |) | Case No. |
| UNIVERSITY, an Oregon public corporation, |) | |
| |) | COMPLAINT FOR DECLARATORY |
| Plaintiff, |) | AND INJUNCTIVE RELIEF - PUBLIC |
| |) | RECORDS |
| v. |) | Fee Amount: ORS 21.135(1), (2)(f) |
| |) | Prayer Amount: Declaratory and Injunctive |
| OREGON PUBLIC BROADCASTING, |) | Relief |
| |) | |
| Defendant. |) | NOT SUBJECT TO MANDATORY |
| |) | ARBITRATION |

Plaintiff Oregon Health & Science University, an Oregon public corporation (“OHSU” or “Plaintiff”), hereby brings this Complaint against and defendant Oregon Public Broadcasting (“OPB” or “Defendant”) and alleges as follows:

INTRODUCTION

Plaintiff files this action seeking declaratory and injunctive relief to prevent a public records order of the Multnomah County District Attorney’s Office from taking effect. The order requires Plaintiff to disclose sensitive health information protected by federal law in response to a public records request by Defendant. The Order violates both federal law and the Oregon Public Records Law; accordingly, an injunction must issue so the order does not become effective.

PARTIES

1.

Plaintiff is an Oregon public corporation located in Multnomah County, Oregon.

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2.

Defendant OPB is an Oregon non-profit corporation.

JURISDICTION AND VENUE

3.

This Court has personal jurisdiction over Defendant because it made a written request to Plaintiff for disclosure of public records, pursuant to ORS 192.324(1), and petitioned the Multnomah County District Attorney to order Plaintiff to disclose public records, pursuant to ORS 192.411(1) and ORS 192.415(1)(a).

4.

Venue is appropriate in this county because ORS 192.411(2) requires that proceedings challenging a state order granting a petition for public disclosure of records must be filed in the county where the public record is held. Plaintiff is a public body, and the records at issue are held in Multnomah County, Oregon.

5.

The Circuit Court for the County of Multnomah has subject-matter jurisdiction over this proceeding under ORS 192.411, 192.415, ORS 192.431, and ORS 28.010.

FACTS

6.

On April 3, 2026, OHSU terminated OHSU Health CEO Tarek Salaway after an investigation into professionalism and communication concerns.

7.

In response to an earlier separate records request from Willamette Week, in April, 2026, OHSU released copies of the names of nine witness statements given during its investigation with source-identifying materials redacted. OPB was provided those documents. Plaintiff also determined that two records referenced in the workplace review, its Code of Conduct and

///

1 Respect for All Guide, were responsive and non-exempt. These were produced to Defendant, and
2 are not at issue here.

3 8.

4 OPB’s request at issue here sought the balance of OHSU’s personnel investigation file as
5 follows. On or about April 15, 2026, OPB reporter Amelia Templeton submitted a public records
6 request to OHSU seeking, “OHSU’s investigative file on departing OHSU Health CEO Tarek
7 Salaway, including the workplace environment report and full 360 review.” The request was
8 made pursuant to the Oregon Public Records Law, ORS 192.311, et seq.

9 9.

10 On or about April 28, 2026, Defendant stated that its request for records included “* * *
11 the full file on OHSU health CEO Tarek Salaway, including the full 360 review and environment
12 report” and also “any notes or statements you have from Salaway as part of that file.”

13 10.

14 On or about May 4 and 6, 2026, Plaintiff acknowledged receipt of Defendant’s public
15 records request and stated that “[t]he responsive records to your request are exempt under ORS
16 192.345(12) and withheld on that basis. You may seek review of OHSU’s determinations to
17 exert exemptions pursuant to ORS 192.415, 192.418, 192.422, and 192.431. Your request is
18 complete and will be closed.”

19 11.

20 On May 21, 2026, Defendant appealed OHSU’s denial of its public records request by
21 petitioning for review of the denial by the Multnomah County District Attorney’s Office under
22 ORS 192.411(1) and ORS 192.415(1)(a). On May 29, 2026, OHSU responded to OPB’s petition
23 and OPB filed a reply.

24 12.

25 On June 2, 2026, the Multnomah County District Attorney granted OPB’s petition (the
26 “Order”). The Order directs Plaintiff to “produce the 360 review because it is not subject to ORS

1 192.345(12). OHSU shall produce the remaining documents because the public interest
2 overcomes the conditional exemption in ORS 192.345(12) on these facts. This release is subject
3 to redaction to remove the names, and immediately source-identifying information (i.e. job title
4 if not generic), of witnesses who gave statements to the investigators. This release is subject to
5 the payment of fees, if any, not to exceed those authorized by ORS 192.324(4).” The Order is
6 attached to this Complaint as Exhibit 1.

7 13.

8 On or about June 9, 2026, Plaintiff sent written notice to Defendant and the Multnomah
9 County District Attorney, informing them of Plaintiff’s intention to challenge the Order by
10 instituting proceedings in Circuit Court for injunctive or declaratory relief under ORS 192.411(2)
11 and ORS 192.415(1)(a). Plaintiff’s written notice is attached to this Complaint as Exhibit 2.

12 14.

13 Plaintiff now timely files this Complaint seeking relief from the Multnomah County
14 District Attorney’s Order of June 2, 2026.

15 **FIRST CLAIM FOR RELIEF**
16 **(Declaratory and Injunctive Relief)**

17 15.

18 Plaintiff realleges and incorporates by reference all the above allegations as though fully
19 set forth herein.

20 16.

21 This is an action for declaratory judgment pursuant to ORS chapter 28, as well as an
22 action for injunctive and declaratory relief pursuant to ORS 192.411(2), ORS 192.415(1)(b), and
23 ORS 192.431(1).

24 17.

25 ORS 192.345(12) conditionally exempts from disclosure “[a] personnel discipline action,
26 or materials or documents supporting that action.” OHSU terminated Mr. Salaway’s employment

1 for disciplinary reasons. The records requested by OPB, including the 360 degree review, fit
2 within that definition. Therefore, they are subject to ORS 192.345(12) and its contents are
3 protected by the conditional privilege.

4 18.

5 The public interest in disclosure of the requested documents does not outweigh the dual
6 interest of OHSU and its personnel in confidentiality. The already-disclosed witness statements
7 reveal that professionalism and communication issues during Salway's tenure were the crux
8 conduct leading to the termination. The personnel discipline issue presented by Salaway's
9 discharge involves a single employee. It does not involve OHSU's management of its public
10 employees, a pattern or an accumulation of repeated disciplinary violations, or any systemic
11 misconduct within OHSU. Although Salaway was the former OHSU Health CEO, he had a brief
12 tenure of less than four months, and was terminated for professional and communication
13 concerns, not for serious misconduct. On these facts, the public interest in does not outweigh
14 OHSU's confidentiality interest.

15 19.

16 Plaintiff is entitled to a declaration that the 360 review is subject to ORS 192.345(12) and
17 that it and the remaining documents requested are protected under ORS 192.345(12)'s
18 conditional exemption as the public interest in disclosure is outweighed by OHSU's
19 confidentiality interest.

20 20.

21 Plaintiff is entitled to an order, providing declaratory relief and an injunction, to the effect
22 that: (1) Plaintiff has no obligation to, and indeed must not, disclose to OPB the records that
23 OPB sought under the Oregon Public Records Law, and (2) that the Order of the Multnomah
24 County District Attorney's Office is erroneous, invalid, and without force and effect.

25 ///

26 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests that the Court:

3 1. Declare that the 360 review is subject to ORS 192.345(12), and that it and the
4 remaining documents requested on OHSU’s investigation and termination as to Tarek Salway
5 fall within the conditional privilege provided in ORS 192.345(12), and that the public interest in
6 disclosure does not overcome the protection provided by the statute.

7 2. Order temporary, preliminary, and permanent injunctive relief enjoining the
8 Multnomah County District Attorney’s Office from enforcing its June 2, 2026, Order.

9 3. Award Plaintiff its reasonable attorney’s fees and costs.

10 4. Award such other and further relief as the Court deems just and equitable.

11 DATED this 16th day of June 2026.

12 HART WAGNER LLP

13
14 By: /s/ Janet M. Schroer
15 Janet M. Schroer, OSB No. 813645
16 E-mail: jms@hartwagner.com
17 Taylor B. Lewis, OSB No. 164263
18 E-mail: tbl@hartwagner.com
19 Of Attorneys Plaintiff

20 Trial Attorney: Janet M. Schroer, OSB No.
21 813645



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

June 2, 2026

via email only

Jon Bial
Deputy General Counsel
Oregon Public Broadcasting
jbial@opb.org

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.

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.

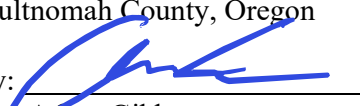
Page 4
June 2, 2026
Petition of OPB (Templeton)

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.

26-36

**HART
WAGNER**^{LLP}
TRIAL ATTORNEYS

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June 9, 2026

VIA EMAIL AND CERTIFIED MAIL

Nathan T. Vasquez
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Jon Bial
Deputy General Counsel
Oregon Public Broadcasting
7140 S. Macadam Avenue
Portland, OR 97219
jbial@opb.org

Re: Notice of Intent to Institute Proceedings for Injunctive or Declaratory Relief

Dear Mr. Vasquez, Mr. Gibbs and Mr. Bial:

On June 2, 2026, the Multnomah County District Attorney's Office ordered Oregon Health & Science University ("OHSU") to provide "OHSU's investigative file on departing OHSU Health CEO Tarek Salaway, including the workplace environment report and full 360 review" 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.

In the Order, the Multnomah County District Attorney provided notice of OHSU's right to judicial review of the Order under ORS 192.411(2) and ORS 192.415. That authority entitles OHSU to institute proceedings for injunctive relief or declaratory relief in the circuit court of the county where the public record is held.

June 9, 2026

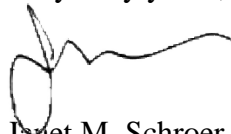
Page 2

Consistent with that right, **OHSU provides formal notice of its intent to institute proceedings for injunctive or declaratory relief in Multnomah County**, the county where the public records are held.

This letter is solely intended to assert OHSU's right to seek judicial review of the Order. This letter is not intended to be a complete statement of all facts, evidence, or relevant legal principles. Nothing stated or omitted from this letter should be construed as or deemed to be a waiver, relinquishment, or compromise of any and all of OHSU's rights and remedies regarding the Order, all of which are expressly reserved.

Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Janet M. Schroer', with a long horizontal flourish extending to the right.

Janet M. Schroer

JMS:iow

cc: D. Raghav Shanmugasundaram