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December 23, 2024

VIA E-MAIL ONLY: amberp@mosaicservices.org

Amber Pathak
PO Box 740035
Dallas, TX 75374

Re: Petition for Public Records Disclosure Order
Department of Human Services Office of Training, Investigation and Safety
DOJ File No.: 100101-GA0129-24

Dear Ms. Pathak:

This letter is the Attorney General's response to your petition, on behalf of a client, for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Office of Training, Investigation and Safety (OTIS) of the Department of Human Services (DHS) to disclose records relating to a founded child abuse determination against your client's adult son. Your petition explains that your client needs these records for pending divorce proceedings. You indicate that you have a written release from your client's son authorizing OTIS to disclose these records to you, and that you are amendable to any conditions necessary to protect the confidentiality of the records, such as a protective order. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

We contacted Seantel Heisel, OTIS Operations Manager, regarding your petition. She explained that the records you seek were compiled under Oregon's Child Abuse Reporting

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Statutes, ORS 419B.010 to 419B.050, and are therefore confidential under ORS 419B.035(1).[1] And, she noted, records made confidential by state law are expressly exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). Although ORS 419B.035(1) contains exceptions that permit DHS to disclose confidential child abuse records in limited circumstances, she explained DHS' position that none of those exceptions apply to your request.[2] Ms. Heisel also explained that under ORS 419B.035(3), DHS has limited discretion to release child abuse records when necessary to promote certain prescribed purposes.[3] In this instance, however, DHS has determined that disclosing the requested records to you, your client, or your client's son, is not necessary to promote those limited purposes at this time.

After discussing the requested records with Ms. Heisel, we find that they were compiled under Oregon's Child Abuse Reporting Statutes. They are therefore confidential under ORS 419B.035 and expressly exempt from public disclosure under ORS 192.355(9)(a). None of the exceptions listed in ORS 419B.035(1) appear to apply to your request. Although DHS has limited discretion to disclose the records, it has determined that disclosing them to you, your client, or your client's son at this time would not promote the limited purposes detailed in ORS 419B.035(3). Under the circumstances, we have no reason to second-guess DHS' statutorily entrusted determination and therefore conclude that the department was permitted to withhold the records. We therefore respectfully deny your petition.[4]

Sincerely,

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Seantel Heisel (DHS OTIS)

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[1] ORS 419B.035(1) states, in relevant part, that notwithstanding the provisions of the Oregon Public Records Law, "reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section * * * ."

[2] Regarding the exceptions to the general rule of confidentiality, ORS 419B.035(1) generally requires DHS to disclose child abuse records – in limited circumstances and for limited purposes – to: law enforcement agencies; certain medical providers; attorneys or other parties in juvenile court proceedings; certain citizen review boards; court appointed special advocates in certain proceedings; the Office of Child Care; the Office of Children's Advocate; the Teacher Standards and Practices Commission for certain investigations; Disability Rights Oregon, and to any person in cases where a child, as the result of abuse, died or suffered serious physical injury.

[3] ORS 419B.035(3) permits DHS to make records compiled under Oregon's Child Abuse Reporting Statutes available to any person "when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, [and] to protect children from abuse * * * ."

[4] We emphasize that this order only addresses your rights to these records under the Oregon Public Records Law. Although your petition states that you are amenable to an order protecting these records from further disclosure, neither this office nor DHS have the authority to issue protective orders or to address what rights you or your client may have to access these records under the rules of civil discovery for purposes of private litigation.