DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

May 21, 2026

VIA E-MAIL ONLY: info@terasinc.org

Phillip Broyles
Teras Intervention and Counseling Inc.
3945 SW Hawthorne Blvd
Portland, OR 97214

Re: Petition for Public Records Disclosure Order
Oregon Health Authority
DOJ File No.: 443801-GA0102-26

Dear Mr. Broyles:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition concerns a request to the Oregon Health Authority (OHA) for records related to a complaint you filed. You challenge redactions made pursuant to the attorney-client privilege and also dispute the completeness of OHA's response. 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). 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. *Id.*

OHA redacted portions of a record it produced to you, citing the attorney-client privilege. In considering your petition, we obtained the unredacted record from OHA and compared it to the redacted version you received. The redacted material reflects OHA's attorney's legal analysis. We agree with OHA that these comments constitute confidential legal advice and are therefore exempt from disclosure under the Public Records Law.[1]

[1] ORS 192.355(9)(a) expressly exempts from disclosure "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or *privileged* under Oregon law." (Emphasis added.) ORS 40.225 is one such law because it provides that clients have "a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client." Accordingly, ORS 192.355(9)(a) permits public bodies to withhold public records that are protected by the attorney-client privilege.

Your petition also challenges the completeness of OHA's records production. We contacted Jeanne Windham, OHA's Public Records Coordinator, about your requests. Ms. Windham indicated that OHA provided all responsive records. No documents were withheld. Your petition indicates that you believe OHA failed to conduct a search for responsive emails. We reviewed records demonstrating that OHA ran an electronic search of its email system in response to your request. Under the circumstances, we have no reason to doubt OHA's representation that additional records do not exist.

Your petition also argues that OHA's stated rationale for closing the underlying complaint filed by you is "chronologically impossible." You contend that OHA closed your January 2025 complaint by referencing a plan of correction from December 2024 and therefore could not have relied on that plan to address the conduct you reported. You argue that OHA's explanation reflects a "non-responsive closure" rather than a "determination on the merits" of your complaint. The Public Records Law does not, however, require an agency to answer questions, explain its reasoning, or justify its programmatic decisions in response to a records request.[2] The Public Records Law does not authorize the Attorney General to order an agency to create new records, to make determinations, or to further investigate a matter so that additional records might come into existence.[3] For these reasons, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP/pjn
c via email only: Jeanne Windham (OHA)

[2] *See Attorney General's Public Records and Meetings Manual* at 6 (2024) ("The Public Records Law does not require public bodies to create new public records. Nor does it require public bodies to disclose the reasoning behind their actions; answer questions about their records; analyze their records; or perform legal research in order to identify records that are responsive to a request.")

[3] Under the Public Records Law, the Attorney General has authority to review a state agency's decision to withhold records from public inspection. ORS 192.411(1). The Attorney General also has authority to review a state agency's denial of a public records fee reduction or waiver. ORS 192.324(6). And the Attorney General is authorized to review compliance with certain deadlines and procedures applicable specifically to a public body's response to a records request. ORS 192.407(1).