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October 21, 2026

VIA E-MAIL ONLY: emberyaustinlee@gmail.com

Austin Embery
emberyaustinlee@gmail.com

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100101-GA0193-26

Dear Mr. Embery:

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 challenges several aspects of the Oregon Department of Human Services' (ODHS) response to your public records request. For the reasons set forth below, your petition is denied.

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).

You made a records request to ODHS on March 13, 2026. ODHS produced records on September 2, 2026. Your petition challenges the completeness of that response. You identify several categories of records that you believe are missing from the production.[1] We contacted Mallory Kenney, ODHS Public Records Unit Manager, regarding these records. Ms. Kenney stated that the request you submitted on March 13, 2026, was limited to Child Protective Services (CPS) records, and the ongoing foster care records described in your petition were not within the scope of the request. Therefore, ODHS did not search for or provide those records.

[1] You note that the records contain no "permanency case notes or contract notes" concerning your daughter. You also explain that you received certain materials as part of discovery in another matter that were not included in ODHS's records production. Finally, you note that the production did not include a letter concerning your daughter sent by an ODHS caseworker.

We reviewed a screen capture from ODHS's public records system showing your records request. Requesters seeking records in the custody of ODHS Child Welfare are offered two checkbox options: one for "Child Protective Services" and one for "Foster Care." ODHS's records system shows that you checked the box for the CPS records but declined the foster care option. Because these foster care records are outside the scope of your request, we cannot order ODHS to produce them. You are free, of course, to submit a new records request to ODHS.

Your petition also asks the Attorney General to order ODHS to explain the redaction of certain criminal history information contained within the CPS records disclosed to you. Ms. Kenney stated that criminal history information you seek was contained within records compiled under Oregon's Child Abuse Reporting Statutes, ORS 419B.010 to 419B.050, which are made confidential under ORS 419B.035(1).[2] She further noted that ODHS has discretion under ORS 419B.035(3) to release child abuse records when necessary to promote certain specified purposes,[3] and ODHS has elected to exercise its discretion and release portions of the records to you. ODHS has not, however, elected to release criminal history information obtained from the Law Enforcement Data System because of the confidential nature of those records. Under these circumstances, we have no reason to second-guess ODHS's determination, which the legislature has entrusted to the agency's discretion and therefore conclude that the department was permitted to redact the criminal history information.

Your petition also seeks the production of the emails of two staff members that were sought as part of your March 2026 request. Ms. Kenney indicated that ODHS conducted an electronic search, which resulted in more than 1,000 potentially responsive emails. She stated that ODHS is processing those emails and will be producing additional responsive records to you within 30 days. Ms. Kenney stated that ODHS would not be charging you a fee for production of records responsive to your March request. Because ODHS is producing the records you seek, we dismiss this portion of your petition as moot.

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[2] 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 * * * ."

[3] ORS 419B.035(3) permits ODHS 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 * * * ."

You also challenge ODHS's decision to deny a fee waiver request you made in connection with a separate records request submitted on July 28, 2026. Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4) and (5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *See Attorney General's Public Records and Meetings Manual* at 19 (2024) ("*Manual*"). A requester who believes there has been an unreasonable denial of a fee waiver or reduction may petition the Attorney General for review. ORS 192.324(6).

You have not identified any broader public interest in the records you seek, and your petition states that you "intend to restrict access" to the child welfare information contained in any records provided to you by ODHS. Because your request concerns a private matter that will not be publicly disseminated, we conclude that ODHS's decision to deny your fee waiver was reasonable. We therefore respectfully deny this aspect of your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Mallory Kenney (ODHS)