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VIA E-MAIL ONLY: santoyaambrose74@gmail.com

Steven Alexander-Santoya
santoyaambrose74@gmail.com

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100301-GA0227-26

Dear Mr. Alexander-Santoya:

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 part of the Oregon Department of Human Services' (ODHS) response to your public records request. For the reasons set forth below, 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).

Your petition concerns a request for a record relating to the dismissal of an ODHS employee. ODHS asserts that this information is exempt pursuant to ORS 192.345(12), a provision that conditionally exempts from disclosure "[a] personnel discipline action, or materials or documents supporting that action," unless the public interest requires disclosure in the particular instance. We agree that the requested record reflects a personnel discipline action subject to the exemption, which means ODHS is permitted to withhold them unless the public interest requires disclosure in this instance.

In evaluating whether the public interest requires disclosure in this instance, we must determine whether the public's interest in disclosure outweighs the competing interests in confidentiality, with the presumption favoring disclosure when the parties' interests are of equal

value. *See ACLU v. City of Eugene*, 360 Or 269, 280 (2016). The Oregon Court of Appeals has described the public interest in disclosure as the right of the public at large to monitor how public business is conducted and how public officials are performing their jobs. *See Guard Publishing Co. v. Lane County School Dist*., 96 Or App 463, 469 (1989); and *Jensen v. Schiffman*, 24 Or App 11, 17 (1976). And in making this determination with respect to disciplinary records, the "typical interest in confidentiality is to 'protect[] the public employee from ridicule for having been disciplined.'" *Attorney General's Public Records and Meeting Manual* at 53 (2024) (*quoting City of Portland v. Rice*, 308 Or 118, 24 n 5 (1989)).

Your petition does not identify any public interest that would be advanced through disclosing to you information about a disciplinary action involving an ODHS employee. On balance, we find that the public interests in nondisclosure—which include the need to protect the subjects of the discipline from potentially unwarranted embarrassment—outweigh the public's interest in disclosure at this time. We therefore conclude that the public interest does not require ODHS to disclose the information, and we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

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