Nathan Vasquez, Multnomah County District Attorney

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October 30, 2026

via email only

Jamie Jevning
jamiejevning@gmail.com

Andrea L. Schiers
Senior Legal Counsel
Portland Public Schools
aschiers@pps.net

Re: Petition of Jamie Jevning concerning the form of Portland Public Schools' production and its privilege redactions

Dear Ms. Jevning and Ms. Schiers:

On May 5, 2026, Jamie Jevning asked Portland Public Schools (PPS) for Google Workspace documents, meeting records, and email concerning Ms. Jevning's child, all "in native, non-flattened format, rather than PDF or static image format," with "all available metadata." PPS produced the records as PDF files, completing production on September 8, 2026. Among them was a form completed by PPS special education administrators concerning the family's special education complaint (the Report), portions of which PPS redacted as attorney-client privileged under ORS 192.355(9)(a) and ORS 40.225. PPS later explained that it cannot produce records requiring redaction in native form because "any redactions or deletions could potentially be reversed."

Ms. Jevning petitioned this office on October 26, 2026, as permitted by ORS 192.415, seeking the records in native form with their nonexempt metadata and challenging the Report's redactions. PPS provided the unredacted Report for my review pursuant to ORS 192.422(2). It now agrees that records requiring no redaction can be produced in native or comparable Microsoft formats, but maintains that a redacted PDF suffices for a record that must be redacted.

For the reasons below, I find that the attorney-client redactions are appropriate, for those records requiring redaction, a redacted PDF satisfies ORS 192.324(3), and for the remainder PPS must produce non-flattened versions of the files.

DISCUSSION

A. Attorney-Client Privilege — ORS 192.355(9), ORS 40.225

The attorney-client privilege protects "confidential communications made for the purpose of facilitating the rendition of professional legal services to the client," including those between a client's representative and its lawyer and those among the client's representatives. ORS 40.225(2)(a), (d). Through ORS 192.355(9)(a) it is an unconditional exemption, and the public interest in disclosure is not weighed against it. *Klamath County School District v. Teamey*, 207 Or

App 250, 260-61 (2006). Where a record could serve multiple purposes, this office asks whether its primary purpose was to facilitate legal services. *Petition of Bial,* MCDA PRO 21-24 (2021).

PPS's counsel explains that the form was developed with counsel for use when parents allege violations of the Individuals with Disabilities Education Act, to give staff a place to gather information for counsel to provide advice to the District. Special education administrators completed this one after the parents requested a due process hearing, counsel reviewed it with them, and it has informed the District's conduct of that ongoing proceeding. The redacted entries are the administrators' answers to the form's questions. That is the circumstance in *Teamey*, where reports of an investigation conducted so that the district's lawyer could advise it, and relied on in that advice, were privileged. 207 Or App at 261-62. That the investigators here were the client's own administrators, rather than investigators the lawyer engaged, does not change the result. ORS 40.225(2)(a), (d); *see Petition of Slaney*, MCDA PRO 21-53 (2021) (lawyer's investigative report privileged in its entirety).

Ms. Jevning argues that the Report's visible instructions, which direct staff to send written findings to the parents, determine compensatory services, and record the results in the student's file, show an educational purpose rather than a legal one. Unlike the management audit in *Bial*, which contained "no legal analysis, no legal recommendations, no discussion of how to limit liability," the Report exists because the parents made a legal claim against the District, and it was completed for the District's lawyers. That the document also contains additional instructions for procedures administrators should follow does not alter that point.

B. Form of Production — ORS 192.324(3)

ORS 192.324(3) requires a public body to provide an electronic record "in the form requested, if available," and otherwise "in the form in which the public body maintains the public record." Where the maintained form carries the metadata a requester seeks, the record comes with it. *Petition of Kessler*, MCDA PRO 18-35 (2018) (emails to be produced as the MSG and PST files in which they were maintained, metadata included); *see Petition of Myers*, Washington County DA PRO (Mar. 17, 2023) (Google documents downloadable in Microsoft formats are "available" in those formats). The request in this case sought specific documents in a "non-flattened format" containing "all available metadata."

PPS now agrees that it can produce Google documents, email attachments, and emails that require no redaction in their native formats or in comparable, non-flattened Microsoft formats, consistent with the Washington County District Attorney's decision in *Myers*. These records in this format are within the scope of the original request and must be produced.

Records requiring redaction, however, present a different issue. A public body is not required to produce exempt material simply because the format in which it maintains the record does not support durable redaction. Material hidden or covered in a word processing file can almost always be recovered, and versioning history often stores "deleted" data in a way that is capable of restoration. Converting the redacted document to PDF, which removes that data, is the accepted way to securely release it.[1] The record PPS the public records law obligates PPS to produce is the

[1] *See, e.g.,* National Security Agency, *Redacting with Confidence: How to Safely Publish Sanitized Reports Converted From Word to PDF*, Report No. I333-015R-2005, 2-4 (Dec. 13, 2005) (https://www.ca7.uscourts.gov/assets/pdf/nsa-redact.pdf).

redacted record. It does not maintain that redacted record in a format other than PDF and, as such, producing it in that form satisfies ORS 192.324(3).

Whether PPS can retrieve and produce additional metadata not captured in the PDF conversion process in a way that does not expose exempt information is a technical question. On September 25, 2026 PPS told petitioner:

> Google documents do not save discrete iterative drafts the way Microsoft Word does, and to my knowledge 'version history,' comment history, and document ownership details are only visible to individual users with edit access, and are stripped out when copies are made. I cannot give members of the public edit access to PPS documents. It's possible that some of that data can be downloaded from google vault, but I would need multiple hours for each document to work with our IT department to identify what is and isn't possible."

Nothing in the materials submitted to me indicates that petitioner responded to this offer or authorized the likely additional costs associated with pursuing the matter.

ORDER

Accordingly, the petition is granted in part.

PPS has conceded that it can produce the responsive documents, email attachments, and emails that require no redaction in a non-flattened file format. It must do so. Such records were within the scope of the initial request. This release is subject to the payment of fees, if any, not to exceed those authorized by ORS 192.324(4).

The petition is otherwise denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: _____
Adam Gibbs
General Counsel

Notice to Public Agency

Pursuant to ORS 192.411, 192.415, and 192.431(3), your agency may become liable to pay petitioner's attorney fees in any court action arising from this public records petition (regardless of 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.

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