Nathan Vasquez, Multnomah County District Attorney

1200 SW 1st Avenue, Suite 5200, Portland, OR 97204-1193
P: (503) 988-3162 | F: (503) 988-3643 | www.mcda.us

November 5, 2026

via email only

Jeff Merrick
jmerrick@jeffmerrick.com

Re: Petition of Jeff Merrick challenging the timeliness of Portland Public Schools' response to a public records request

Dear Mr. Merrick:

On October 5, 2026, Portland Public Schools (PPS) released proposals to "rightsize" its operations through the closure of certain schools and presented them to its board the next day. PPS states that it has more school buildings than its enrollment supports, and it faces a projected $65 million budget shortfall for next school year. It offered three scenarios: Scenario A would close 14 schools and Scenario B would close 11, each including Sellwood Middle School, and a third scenario would make no change.[1]

On October 7, 2026, you submitted a public records request to PPS for records from April 14, 2026, forward concerning that effort. Specifically, you sought all records mentioning Sellwood Middle School, Hosford Middle School, or Brentwood or Lane Middle School, and all records containing analysis or data considered under the school-closure criteria of Board Policy 6.10.030-P. PPS subsequently clarified its understanding of the scope of the request, the details of which are not relevant to the timeliness issue presented here.

On October 30, 2026, having not yet received the records you requested, you petitioned this office seeking an order under ORS 192.407 compelling PPS to disclose them by November 6. You argue that time is of the essence and that the ordinary public records decision timeline is too slow to meet the interest in this case. This is because the superintendent's recommendation on the proposals is due November 17 and the school board is scheduled to vote December 15.

PPS has informed me that it has now completed its response to your request. On November 3, PPS made available to you the messages that a keyword search of its email archive located for the first three items of your request, along with a chart of redactions. As to the fourth item, PPS advised you that it has no responsive records because no "school closure report" has yet been prepared under Board Policy 6.10.030-P. It added that such reports will be prepared in conjunction with the board's anticipated vote in December and posted publicly, and that any related data already compiled for the rightsizing scenarios is available on its rightsizing webpage.

PPS states that it "recognizes the broad public interest in materials related to the Rightsizing process." The intense interest has also resulted in a substantial increase in the number

[1] See, among others, Elizabeth Miller, "Up to 14 schools closing in Portland Public Schools 'rightsizing' scenarios," OPB (Oct. 5, 2026) (https://www.opb.org/article/2026/10/05/portland-public-schools-closures-rightsizing/); Portland Public Schools, *District wide scenarios 10.04.26*, p. 1 (Oct. 2026) (available at https://www.opb.org/pdf/District%20wide%20scenarios%2010_1791246176222.pdf).

of public records requests submitted to PPS and slowed its ability to respond across the board. PPS relates that it has received 108 new records requests since announcing the proposals last month. Many of the requests seek similar materials to those at issue here. PPS contends that, given that volume, ORS 192.329(6)(c) applies and that the timeline of its response to your request was reasonable under the circumstances.[2]

PPS is right that the public interest here is high: these records bear on which public schools will remain open and how that decision will be made by the officials responsible. The surge in requests that has followed is also significant and beyond the normal flow of requests that PPS expects to handle in a given month. I need not in this case resolve those competing interests and order a particular production date because PPS has now completed its response to your request, which renders your request for relief (i.e. an order that PPS produce records by November 6) moot. *Clapper v. Oregon State Police*, 228 Or App 172, 178 (2009) (where records are produced prior to adjudication, dismissal of a court case is proper); *Petition of Bial*, MCDA PRO 22-10 (2022) (same result for district attorney petitions).

ORDER

Accordingly, the petition is denied as moot.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: _____
Adam Gibbs
General Counsel

Cc: Andrea Schiers, Senior Legal Counsel, Portland Public Schools

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[2] ORS 192.329(6)(c) provides that the ordinary 15-day response deadline does not apply "if compliance would be impracticable because […] [o]f the volume of public records requests being simultaneously processed by the public body."