



DISTRICT ATTORNEY

John M. Haroldson
120 NW 4th Street
Corvallis, OR 97330-4788

Criminal Law Division 541-766-6815
Child Support Unit 541-766-6817
Victim Services 541-766-6688
FAX 541-766-6701

Kate Willson
2240 NW 29th St.
Corvallis, OR 97330

Megan Campbell
The Daily Barometer
Memorial Union East 1118
Oregon State University

Bennett Hall
The Gazette-Times
600 Jefferson Avenue SW
Corvallis, OR 97333

Re: Public Records Request

Dear Ms. Willson, Ms. Campbell, and Mr. Hall;

This letter is the District Attorney’s order regarding your letter petition dated January 8, 2014, for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition requests an order directing Oregon State University (OSU) to provide public records showing data dictionaries or record layouts accompanying tables from which the university extracts compensation data. For the reasons that follow, we respectfully deny your petition, in part, and grant your petition in part. (Note: Both you and OSU raise arguments about the application of FERPA to some of the data. However, you have not asked my office to order OSU to disclose personally identifiable information about student employees, so I do not address that issue in my order.)

The Public Records Law confers a right to inspect public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. OSU does not dispute that it is subject to the provisions of ORS 192.410 to 192.505. Public record is defined in pertinent part to include “any writing that contains information relating to the conduct of the public’s business.” However, some public records may be exempt or conditionally exempt from public disclosure.

It appears that much of the disagreement between the parties is related to whether particular information – specifically the “data dictionary” and “record layouts” of OSU’s Banner system –

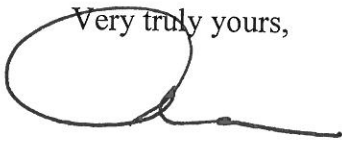
are part of a software program, or simply information that is stored electronically and managed by the software. That disagreement seems to be exacerbated by the fact that the term “data dictionary,” at least, may be used in more than one way – sometimes to describe software and sometimes to describe data stored within a software program. Computer programs are conditionally exempt from disclosure pursuant to ORS 192.501(15), but information stored within such programs is not exempt. OSU also argues that the same information constitutes a trade secret of its software vendor, Ellucian.

OSU and Ellucian describe these things as functional parts of the software, while you argue that it is simply information managed by Banner. This is a highly technical argument about a particular piece of software that my office does not have the capacity or the time to thoroughly explore. Consequently I must make my decision based on the record before me. Overall, based primarily on affidavits and other documents submitted by OSU and Ellucian, I find OSU’s position to be the more persuasive with respect to the software issue. In other words, it appears that the “data dictionaries” and “record layouts” that OSU is referring to are part of the computer program that manages the information in Banner, even though the term “data dictionary,” at least, can sometimes be used to describe things other than computer program components. I therefore deny your petition with respect to the data directories and record layouts, based on ORS 192.501(15). I do not reach OSU’s contention that the information is a trade secret and exempt pursuant to ORS 192.501(2).

I grant your petition with respect to your request that I order OSU to waive its fees associated with the information that it has agreed is subject to disclosure. I find that disclosure of the information at issue is in the public interest, that you have the capacity to disseminate that information to the general public in an understandable manner, and that the OSU’s proposed fee impedes that public interest while waiving the fee would not be a significant burden on OSU. OSU’s refusal to waive its fees is unreasonable under the circumstances. I therefore order OSU to provide you with the data it originally offered in its letter dated October 22, 2013 at no cost.

The parties in the matter retain the right to seek appropriate relief through the Benton County Circuit Court.

Very truly yours,

A handwritten signature in black ink, appearing to read "John M. Haroldson". The signature is written in a cursive style with a large, looping initial "J".

John M. Haroldson
Benton County District Attorney

cc: Meg Reeves, OSU General Counsel