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November 13, 2023

David Gutman
Reporter, Seattle Times
[REDACTED]

Jessica Schuh
Assistant General Counsel
University of Oregon
[REDACTED]

Re: *Public Records Appeal*

Mr. Gutman and Ms. Schuh,

The following will constitute the District Attorney's order in this matter.

On September 27, 2023, Mr. Gutman submitted a public records request to the University of Oregon for public records relating to the University of Oregon's decision to join the Big Ten conference.

The University responded with an initial cost estimate of \$1,880.28 to process the request. Ultimately the fee was reduced by 35% to \$1,217.94. Mr. Gutman requested a further reduction or complete waiver of the fee. The University denied any further reduction. Mr. Gutman filed an appeal of the denial of the waiver.

The Oregon Public Records law allows a public entity to establish fees reasonably calculated to reimburse the body for the actual costs associated providing the records. ORS 192.324(4)(a). ORS 192.324(5) allows the public body the discretion to reduce or waive the fees if making the records available primarily benefits the general public.

If a requestor believes that a refusal to waive or reduce the fees has been unreasonable, that person may appeal the denial of the request. ORS 192.324(6).

It is not clear what standard the District Attorney should apply in ruling on the appeal. Given that the statute specifically grants the public body the discretion to decide upon a reduction or waiver, I will review the denial for an abuse of discretion.

In considering the appeal, I solicited from Mr. Gutman, his argument for why disclosure would benefit the public. Mr. Gutman's response is very compelling. I think it is fair to say that Mr. Gutman is not pursuing a private interest, and that the public interest is high.

That being said, the District Attorney's review is limited. I cannot say that the University has been unreasonable in refusing to waive the entire fee, nor in reducing the amount below what it has already been reduced to.

Therefore, it is the order of the District Attorney that the appeal is denied.

Sincerely,

PATRICIA W. PERLOW, District Attorney



Robert D. Lane
Deputy District Attorney