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December 9, 2003

Mr. Keith Randy
1455 Washington Blvd., #207
Stamford, CT 06902

Re: *Petition for Public Records Disclosure Order*:
University of Oregon Records

Dear Mr. Randy:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on December 4, 2003, asks the Attorney General to direct the University of Oregon (University) to produce copies of several categories of contracts and agreements to which two University coaches are parties, and a deferred compensation agreement and "Outside Income Report" concerning a third coach. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person denied the right to inspect or receive a copy of a public record may petition the Attorney General to determine whether the record may be withheld from inspection. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *Id.*

Your petition states that you requested the records from the University on November 3, 2003, and that you had not yet received a response. We spoke with Melinda Grier, Counsel for the University, regarding your request. She told us that she is responsible for responding to your request and that she has initiated the process of identifying and reviewing potentially responsive records.

While your petition references the Public Records Law requiring a public body to respond to a request for records within 7 days, this deadline applies only to the issuance of Public

Record Orders by the Attorney General or a district attorney, and to an elected official's response to a request for records. See ORS 192.465. A public body such as the University has a "reasonable time" within which to respond to a records request, and determining what constitutes a reasonable time "will depend upon the volume of records requested, the staff available to respond to the records request and the difficulty in determining whether any of the records are exempt from disclosure." ATTORNEY GENERAL'S PUBLIC RECORDS AND PUBLIC MEETINGS MANUAL (2001) 9.

It has been approximately one month since you made your request to the University. Ms. Grier told us that she has contacted employees in the University's Athletics Department to initiate the search for records responsive to your request, and that the search has not yet been completed. According to Ms. Grier, the Counsel's office receives a steady flow of public records requests, and, as the only attorney employed by the University, she is responsible for reviewing records to determine their responsiveness to a request and assessing whether responsive records contain information that the Public Records Law exempts from disclosure. As is to be expected, her position as Counsel for the University carries with it numerous other responsibilities.

Ms. Grier has initiated the work necessary to respond to your request. In light of her responsibility for responding to yours and other records requests and for performing non-record related work for the University, we conclude that the time the University has taken thus far to respond to your request does not constitute a constructive denial. Because the University has not denied your request, the Attorney General does not have authority to order disclosure. ORS 192.450. Therefore, we deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS13305
c: Melinda Grier, Counsel, University of Oregon