HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

May 15, 2003

Gary P. Harrell
Harrell & Nester LLP
1515 S.W. Fifth Avenue, Ste 1022
Portland, OR 97201

Re: *Petition for Public Records Disclosure Order*:
Public Employees Retirement System Records

Dear Mr. Harrell:

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.[1] Your petition, which we received on May 9, 2003, asks the Attorney General to direct the Public Employees Retirement System (PERS) to disclose "public documents regarding a request for reasonable accommodation based upon a disability by Kimberly Cobrain."

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420. Any person denied the right to inspect or receive a copy of a public record by a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450(1). Attached to your petition is an April 25, 2003, letter from PERS Human Resources Manager, Stephanie Gillette, denying your request for records.

Your law firm's records request to PERS[2] stated an understanding that former PERS employee Kimberly Cobrain had requested and received a reasonable accommodation based on a

[1] While your petition cites to the federal Freedom of Information Act, as an agency of the state of Oregon PERS is not subject to that law.

[2] The request was in a letter from Mary A. Nester, of your law firm, dated April 19, 2003, and addressed to PERS, Archives Building, 800 Summer St. NE – Suite 200, Salem, OR 97301. Although PERS did have a branch office in the Archives Bldg, the location of the main office is at 11410 SW 68th Parkway, Tigard, Oregon and the mailing address is P.O. Box 23700, Tigard, OR, 27281-3700.

disability. The request asked for a copy of Ms. Cobrain's request for reasonable accommodation and the agency's determination and accommodation of the same. Steven P. Rodeman, Manager of PERS' Policy Planning and Legislative Analysis Group, told us that PERS staff searched for the records you requested and found none.[3]

Because PERS has no duty to disclose records that do not exist, we deny your petition as moot.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS12367
cc: Stephanie L. Gillette, PERS, Human Resource Manager
Steven P. Rodeman, PERS, Manager, Policy Planning and Legislative Analysis Group

[3] Mr. Rodeman also told us that PERS had denied your original request prior to searching for the requested records based on a belief that any records found would be exempt from disclosure.