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October 15, 2009

Robert Doyle Murphy, #4167482
2605 State St.
Salem, OR 97310

Dear Mr. Murphy:

This letter is the Attorney General's order on your petition for review of the Board of Parole and Post-Prison Supervision (Board)'s denial of your request for records under the Oregon Public Records Law, ORS 192. 410 to 192.505. Your petition, which we received on October 9, 2009, asks the Attorney General to order the Board to produce copies of notices for all administrative rules promulgated pursuant to ORS 144.395.[1]

For the following reasons, 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. A custodian of public records must provide "proper and reasonable opportunities for inspection and examination." *See* ORS 192.430. Correspondingly, the custodian is allowed a "reasonable" time to respond to a request for records. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial. Further, state agencies are required to acknowledge receipt of the request and provide certain responses to written requests for disclosure of public records. *See* ORS 192.440.

We have conferred with Board member Candace Wheeler, who agreed to review the Board's prior responses to your requests for disclosure. Ms. Wheeler indicates that the Board possesses at least some of the records you seek and, within a reasonable time, will provide you with an estimate of the time and fees required to provide you with whatever non-exempt records the Board possesses that are responsive to your request. State agencies may charge fees "reasonably calculated to reimburse the public body for the public body's actual cost of making public records available," ORS 192.440(4)(a), and may require prepayment of the estimated fees

[1] While this description paraphrases your request, we think it captures the spirit of your original requests to the Board. Ordinarily, rulemaking notices will include statements of need and fiscal impact. *See* ORS 183.335(2)(b)(C), (E).

as a condition of making the record available. Public Records Order, April 7, 1989, Martin; Public Records Order, June 30, 2005, Mills. The Board informed you of its plans by letter dated October 12, 2009. On October 14, 2009, the Board sent you a follow up letter estimating its fees at $252.18 and stating that it would require prepayment of those fees. Copies of the Board's letters to you are attached to this order.

It appears that the Board is willing to provide you with the non-exempt records you requested after receiving prepayment of its fees. Although the Board initially denied your request, its current willingness to provide the records means that you are no longer being denied the opportunity to inspect the requested records. We consequently deny your petition. ORS 192.450.

Sincerely,

Mary H Williams

MARY H. WILLIAMS
Deputy Attorney General

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Enclosures
c: Candace Wheeler, Board of Parole and Post-Prison Supervision