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June 18, 2007

William Harbaugh
Department of Economics
1228 University of Oregon
Eugene, OR 97403

Re: Petition for Public Records Order
University of Oregon Records

Dear Mr. Harbaugh:

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. We received your petition on June 11, 2007. The petition asks the Attorney General to direct the University of Oregon to make available:

1. A document describing the duties and responsibilities of the Vice Provost for the OIED job held by Dr. Charles Martinez;

2. Employment contracts for Dr. Martinez's employment at the University of Oregon College of Education, between April 2005 and the present;

3. Documents showing that the University of Oregon made a national search before appointing Dr. Martinez to his current position, as opposed to the interim position that he had held; and

4. Documents (or a summary) explaining the nature of any agreements between the University and Dr. Martinez regarding his outside employment at the Oregon Social Learning Center (OSLC), the allowable extent of his work at OSLC, and how his work at the OSLC affects his FTE status at the University.

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. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial. However, the Attorney General may order a state agency to disclose records only when the agency had denied a request for records. *See* ORS 192.450(1). The Public Records Law does not require a public body to create public records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2005) at 5.

This order discusses each of the four categories outlined above, in turn.

Job description

We spoke with University of Oregon General Counsel Melinda Grier about your petition. Ms. Grier informs us that the University does not have a job description for Dr. Martinez. Although a job description was created for Dr. Martinez's predecessor, none has been created for Dr. Martinez. The old job description does not accurately describe Dr. Martinez's duties. The University has no other document that fulfills your request and no obligation under the Public Records Law to create such a document. Therefore, your petition is denied as moot as to this document. *See* Public Records Order, March 31, 2005, Doughton (denying as moot a petition seeking nonexistent records).

Employment contracts

Ms. Grier informs us that she already has provided you with copies of the Notices of Appointment and Contract for Dr. Martinez that constitute his employment contract. Therefore, your petition is denied as moot as to the employment contracts.

National search

Ms. Grier informs us that the University did not conduct a national search before appointing Dr. Martinez to his current position. Therefore, no documents reflect such a search. Your petition is denied as moot as to these documents.

OSLC employment

Ms. Grier informs us that the University has no agreements with Dr. Martinez that relate to his employment at OSLC. Therefore, no documents are responsive to this request and the petition is denied as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS19829
c: Melinda Grier, General Counsel, University of Oregon