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

March 8, 2007

Jack D. Hoffman
Dunn Carney Allen Higgins & Tongue, LLP
851 S.W. Sixth Ave., Ste. 1500
Portland, OR 97204-1357

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

Dear Mr. Hoffman:

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. Our office received your petition on March 5, 2007. The petition asks the Attorney General to direct the University of Oregon to make available the following:

> All correspondence, which includes e-mail from any person in the University of Oregon to Pat Kilkenny over the time period January 1, 2007 through February 16, 2007.

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. A person who is denied the right to inspect a public record may petition the Attorney General to review the agency's decision. *See* ORS 192.450. 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.

Attached to your request is a letter dated February 20, 2007, addressed to Melinda Grier, the University's General Counsel. In this letter, you request disclosure of the aforementioned information and state as follows:

I request that these records be provided within seven (7) days. If they are not, I will consider the failure to provide the records a denial, and I will file a petition with the Attorney General's office.

Ms. Grier has not responded to your February 20, 2007, request.

We conclude that that Ms. Grier has not been permitted a reasonable time to consider your request. The University's failure to respond to your request within the 7 days you have attempted to impose as a deadline does not constitute a denial of your request. "[A] public body does not deny a request merely because it fails to comply with a deadline the requestor seeks to impose." Public Records Order, May 9, 1989, Hribernick. *See Morse Bros., Inc. v. ODED*, 103 Or App 619, 622, 798 P2d 719 (1990) ("The Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter."). We therefore conclude that there has been no denial of your request. As a result, this office lacks authority to order disclosure. ORS 192.450(1). We respectfully deny your petition to compel disclosure as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS19394
c: Melinda Grier, University of Oregon Counsel