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DEPARTMENT OF JUSTICE

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November 15, 2005

Jon W. Phillips
308 SE Needham St.
Dallas, OR 97338

Re: Petition for Public Records Disclosure Order:
Public Employee Retirement Systems Records

Dear Mr. Phillips:

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 November 8, 2005, requests that the Public Employee Retirement Systems (PERS) produce copies of the following records: a copy of the last 12 months of board meeting minutes and orders, current PERS administrative rules, current PERS Oregon Revised Statutes, current PERS publications, and any internal rules used by staff to determine disability cases.[2]

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 who is denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. 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. *See* ORS 192.450(1). Carol Vogel, Legal Liaison for PERS, has informed us that PERS received your request on October 31, 2005. In its initial response, dated November 1, 2005, PERS provided some of the records and directed you to internet web sites where other information was publicly available. We do not construe that response as a denial of your request. Ms. Vogel further explained that PERS mailed to you a

[1] Your letter does not refer to the Public Records Law, but requests the Attorney General's "help" in obtaining the requested records from PERS. We therefore treat your letter as a petition for an order compelling disclosure of the records under the Public Records Law.

[2] It appears that some of these records are made available to PERS members by operation of OAR 459-060-0010(4).

supplementary response that included requested records on November 10, 2005, after you filed your petition. Because PERS had not denied your request when you filed your petition, your petition to this office is premature and the Attorney General does not have jurisdiction to order disclosure. Accordingly, we respectfully deny your petition at this time.

Sincerely,

Peter D. Shepherd
Deputy Attorney General

PDS/gvk:AGS16446
c: Carol Gillaspie Vogel, Legal Liaison, Public Employee Retirement Systems