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DEPARTMENT OF JUSTICE

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November 15, 2005

Mr. Jared Paben, News Editor
Oregon Daily Emerald
Box 3159
Eugene, OR 97403

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

Dear Mr. Paben:

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 November 1, 2005.[1/] On November 4, 2005, we received a facsimile transmission from you renewing your original request but adding facts to the sequence of interactions between you, your associate at the Oregon Daily Emerald, Meghann Cuniff, and University of Oregon General Counsel Melinda Grier. The petition asks the Attorney General to direct the University of Oregon to make available:

> Records generated by the Office of the General Counsel as a result of an investigation into the Office of Multicultural Academic Support. This includes, but is not limited to, e-mail and memo correspondence generated on or after May 12, 2005.

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 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.

[1/] We appreciate your extending the time within which the law would have otherwise obligated us to issue an order to November 15, 2005.

According to materials submitted by you in your petition and subsequent facsimile transmission, your written interaction with the University of Oregon began on May 30, 2005. In an email of that date to Ms. Grier, you stated your intention to request records about "OMAS" (Office of Multicultural Academic Support) at an indefinite time in the future. You also asked Ms. Grier to discuss your intended request with you to get her advice on "how to word it narrowly enough to be reasonable for your office to handle within a reasonable time frame." By its own terms, your email was not a request for records.

On June 9, 2005, in a letter to Ms. Grier, you requested "copies of records generated by the Office of the General Counsel as a result of an investigation into the Office of Multicultural Academic Support." Although you asserted in your November 1, 2005 petition that Ms. Grier never responded to that request, your subsequent facsimile transmission was accompanied by materials from which we conclude that Ms. Grier timely responded to Ms. Cuniff instead of you and that Ms. Grier did not take action on the request during the summer because Ms. Grier understood that Ms. Cuniff had left campus for the summer.

Ms. Grier responded to the renewed requests in a letter dated September 30, 2005. In that letter, Ms. Grier sought to confirm her understanding of the pending requests and agreed to provide you with estimates of the costs of complying with the requests. In an email dated October 10, you responded to Ms. Grier's letter. Lastly, on November 3, 2005, Ms. Grier provided you with her understanding of the status of each of the pending requests, estimated costs of complying with those requests, and waived certain of the costs of complying with the pending requests.

We conclude that the delay between your June 9, 2005 letter and the renewal of discussions about the requests this fall was reasonable under the circumstances described above. Since at least September 30, 2005, Ms. Grier and you have been actively engaged in defining the records sought and the cost of conducting the review necessitated by your requests. We conclude that under these circumstances, this delay also has been reasonable. 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

PDS/AGS16447
c: Melinda Grier, University of Oregon General Counsel