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DEPARTMENT OF JUSTICE
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Salem, Oregon 97301-4096
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November 23, 2010

Joyce Boles
818 SW Third Ave., #66
Portland, OR 97204

Re: Petition for Review of Denial of Fee Waiver:
Oregon University System Records

Dear Ms. Boles:

On November 16, 2010, we received your petition seeking an order requiring the Oregon University System (OUS) to waive the fees associated with your request for all documents in the possession of the OUS Chancellor's Office in which your name appears.

OUS estimated that responding to your request would entail costs of $113.68, and stated that it would require prepayment of that amount before proceeding to make non-exempt records available to you. OUS declined your request for a fee waiver.

ORS 192.440(4) permits public bodies to establish fees for responding to public records requests that are "reasonably calculated to reimburse the public body for the public body's actual cost of making public records available." ORS 192.440(5) authorizes, but does not require, waiver or reduction of those fees "if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." And ORS 192.450(6) authorizes the Attorney General to review petitions asserting "an unreasonable denial of a fee waiver."

Following receipt of your petition, we spoke with Ryan Hagemann, OUS Secretary. Mr. Hagemann explained that OUS denied your request because OUS does not believe that "making the record available primarily benefits the general public." Mr. Hagemann explained that he understands the request relates to a dispute between you and Portland State University (PSU), and that the primary beneficiary of the request is you, rather than the public. You have informed OUS that you publish a newsletter for which you intend to use this information and that you hope to publish a related piece in a periodical such as Willamette Week. But the request does, indeed, relate to an ongoing dispute between you and PSU. Your petition acknowledges

that "this document request is tangential to my conflict with Portland State." Moreover, the request specifically seeks documents in which your name appears. Given those facts, we cannot reject as "unreasonable" OUS' conclusion that the public is not the primary beneficiary of your request.

Nevertheless, Mr. Hagemann asked that we relay to you his belief that the cost for providing the records would likely decrease significantly if you were willing to limit the request to emails. Your petition seems to primarily contemplate an electronic search, as you state that "[t]he fee assumes and entire hour of work by two employees, which is not possible in this day of computer searching, where a search takes under five seconds."

For the reasons given above, we must respectfully deny your petition.

Sincerely,

for MARY H. WILLIAMS
Deputy Attorney General

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c: Ryan Hagemann, OUS