DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

March 9, 1989

George A. Smith
P.O. Box 641
Merlin, OR 97532

Re: **Petition for Public Records Disclosure Order; Josephine County School District Records**

Dear Mr. Smith:

On March 7, 1989, we received your March 4 letter asking for our help in obtaining specified documents from the Josephine County School District "at a reasonable charge." We treat your letter as a petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. For the reasons stated below, the Attorney General lacks authority to review the Josephine County School District's response to your request.

Under the Public Records Law, the Attorney General has authority to issue a public records order only where a "person [is] denied the right to inspect or to receive a copy of any public record of a state agency." ORS 192.450(1). (Emphasis added.) The Josephine County School District is a public body other than a state agency. Therefore, under the Public Records Law, it is the Josephine County District Attorney, not the Attorney General, who has the authority to review the school district's response to your request. ORS 192.460. You are free to petition the Josephine County District Attorney to review that response.

Your expressed concerns about the fees the school district would charge to satisfy your request merit brief comment. ORS 192.440(2) authorizes a public body to "establish fees reasonably calculated to reimburse it for its actual cost in making [public] records available." In 44 Op Atty Gen 239, 241 (1984) (Attorney General's Public Records and Meetings Manual),

we stated that a public body's actual cost may include not only a per-page charge for copies but also a charge for the time of the public body's employes in locating the requested records. Where a public body's fees comply with the statute, there is no basis upon which the Attorney General or district attorney may intervene.

Very truly yours,

JAMES E. MOUNTAIN, JR.
Deputy Attorney General

JEM:RDW:cm
cc: (w/incoming correspondence)
The Honorable Tim Thompson, Josephine County District Attorney
202 Jospehine County Courthouse
Grants Pass, Oregon 97526
5234a