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DEPARTMENT OF JUSTICE

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March 12, 2012

John J. Tollefsen
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2122 – 164th Street SW, Suite 300
Lynnwood, WA 98087-7812

Re: Petition for Reconsideration of Public Records Disclosure Order
Office of Degree Authorization – Oregon Student Access Commission Records
DOJ File No. 575005-GA0019-12

Dear Mr. Tollefsen:

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. Your petition which we receive on February 27, 2012, asks the Attorney General to order the Office of Degree Authorization ("ODA") and its employees to produce copies of:

> All public records including email under the control of the Office of Degree Authorization relating to EUCLID University, including but not limited to the investigation being conducted to evaluate EUCLID University and all documents used to reach the conclusion that EUCLID University has "no degree-granting authority acceptable under Oregon law."

For the reason that follows, 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. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial. However, 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).

Your petition, which we received on February 27, 2012 states that you had not received the records you requested from ODA.[1] We communicated with Jennifer Diallo, the ODA Administrator, about your petition. She states that ODA will comply with your request. However, due to staffing reductions at ODA, she expects that doing so will take until approximately the end of May using ODA staff. She also stated that ODA is willing to hire a contractor at your expense if you wish to expedite the results. *See, In Defense of Animals v. Oregon Health Sciences University*, 199 Or App 160, 186 (indicating that, in some cases, it may be appropriate to arrange for temporary labor in order to process a public records request); ORS 194.440(4) ("public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available").

Under the circumstances, ODA has not denied your request and we cannot grant your petition.[2] If you wish to take ODA up on its offer to hire a contractor to expedite its response to your request, please contact Ms. Diallo to inform her of that fact and obtain an estimate of the costs entailed.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

MHW:smg/3268271-v1
c: Jennifer Diallo

[1] We appreciate your courtesy in allowing us until March 12 to issue our order.
[2] Nor do we perceive any basis to conclude that ODA has established a fee in excess of $25 without first obtaining your approval in violation of ORS 192.440(4)(c), as your petition seems to suggest.