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May 11, 2023

VIA E-MAIL ONLY: myers.j@icloud.com

Re: Petition for Public Records Disclosure Order and Penalties
Oregon Department of Education – Early Learning Division
DOJ File No.: 581070-GA0053-22

Dear Mr. Myers:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received May 4, 2023, stems from two public records requests you submitted to the Oregon Department of Education's Early Learning Division (ELD) in March 2023. Your petition states that although ELD has completed its responses to both requests, you believe ELD failed to comply with various provisions of the Public Records Law while processing them. You therefore ask the Attorney General to retroactively order ELD to pay a $200 penalty for each of the requests pursuant to ORS 192.407. Your petition also states that you would like ELD to provide records detailing the people, time spent, and specific work they did in responding to your requests.

Our authority to impose a penalty arises when we grant a petition and order the disclosure of records. *See* ORS 192.407(3). Because ELD has completed its responses to you, we have no basis for granting your petition and ordering disclosure. It follows that we lack the authority to impose the penalties you seek in this instance. Additionally, there is no provision in the Public Records Law authorizing this office to order ELD to create new records or to disclose records that you have not previously requested from ELD. You may, of course, submit a new request to ELD for any additional records that relate to the processing of your requests. Under the circumstances, we must respectfully deny your petition because we lack the authority to grant the relief you seek.

Sincerely,

Lisa M. Udland

Lisa M. Udland
Deputy Attorney General

ACF:pjn
c via e-mail only: Robin Oden (ELD)