HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310-0506
Telephone: (503) 378-4400
TDD: (503) 378-5938

March 4, 1999

James S. Evans
OSP # 4552287
2605 State Street
Salem, OR 97310

Re: *Public Records Disclosure Order*
State Office for Services to Children and Families Records

Dear Mr. Evans:

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 received February 25, 1999, asks the Attorney General to direct the State Office for Services to Children and Families (SOSCF) to produce copies of various records. The requested records are:

(1) A copy of your 1994 written response to questions posed by your son's attorney;

(2) A copy of "early court documents" regarding SOSCF's custody of your son;

(3) A copy of any information about your son that can be released, including pictures.

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 public record contains exempt and nonexempt information, the public body must separate the information and make the nonexempt information available for examination if it is "reasonably possible" to do so

while preserving the confidentiality of the exempt information. *Turner v. Reed*, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

The records you requested are held by SOSCF. You previously petitioned the Attorney General for disclosure of those records on December 7, 1998; however, your petition was denied as premature because SOSCF had not denied your request at the time. We are informed by Clyde Ellis, Young Children's Unit Supervisor at the SOSCF East Branch, that SOSCF contacted you shortly thereafter and informed you that the agency needed to review the files for exempt and nonexempt information. You responded by asking SOSCF to provide specific records to you in a letter dated December 22, 1998. Mr. Ellis states that the agency has not denied your most recent request. That is consistent with your statement in the petition that the agency has not responded to your request.

The Public Records Law allows a public body a "reasonable" time to respond to a records request. What is "reasonable" will depend on many factors, including the volume of records requested, the staff available to respond to the records request, and the difficulty in determining whether any of the records are exempt from disclosure. OREGON ATTORNEY GENERALS' PUBLIC RECORDS AND MEETINGS MANUAL at 7 (1997). Mr. Ellis informs us that the agency has been reviewing your request and the files to determine whether any of the records are exempt from disclosure. Because your request is so broad and the files are extensive, Mr. Ellis informs us that a complete review of the file requires a lengthy amount of time and that the agency will be responding to your request within 10 days.[1/]

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(2). Because SOSCF has not denied your request for records, your petition to this office is again premature. *See Morse Bros., Inc. v. ODED*, 103 Or App 619, 798 P2d 719 (1990) ("The Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter."). Accordingly, we deny your petition for disclosure of SOSCF records as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

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[1/] Mr. Ellis also informs us that the agency intends to prepare a cost estimate for your records request. A state agency may charge a fee to reimburse it for its actual cost in making public records available, including time spent by the agency personnel in reviewing and segregating the exempt and nonexempt records and photocopying costs. ORS 192.440(3). SOSCF may require that you reach an agreement about payment before the records are disclosed. OAR 413-350-0080.