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DEPARTMENT OF JUSTICE
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November 23, 1998

Yvonne M.I.B. Martin-Gelissen
P.O. Box 17821
Salem, OR 97305

Re: *Petition for Public Records Disclosure Order: Oregon Department of Education Records*

Dear Ms. Martin-Gelissen:

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.[1] Your petition, which we received on November 17, 1998, asks the Attorney General to direct the Oregon Department of Education (department) to make available documents concerning an Integrated Curriculum Framework for Science and Mathematics Demonstration Site Grant made to the Sheridan High School in 1994. For the reasons that follow, we respectfully deny your petition.

You stated in your petition that "Cathy Brown, Michael Singleton, Debby and Ron Houser/Supervisory of Assessment have all failed to allow me the right to review certain material dealing with grants." Ms. Brown informs us that she has not had any contact with you or your husband. She further informs us that she has spoken with Mr. Houser who states that he

[1] We understand that you are represented by legal counsel in another matter before a state agency. Your attorney in that matter has informed us that he is not acting as your attorney in connection with this petition for public records. Therefore, we are communicating directly with you.

had no contact with you or your husband and that both Mr. Singleton and Debby Ryan, who are office administrative support staff, state that neither your nor your husband requested any documents from them.

Stan Brings of the Office of Curriculum, Instruction and Field Services at the Oregon Department of Education informs us that he did meet with you and your husband on about November 4 and November 5, 1998. Mr. Brings states that in those meetings you asked him for information about a grant that had been awarded to the Sheridan School District, but that he was unable to locate the information you requested. Mr. Brings states that he did not understand you to be requesting any records at that time and that he did not refuse to allow you to inspect any records.

The Attorney General may order a state agency to disclose records only when the agency has first denied a request for records. ORS 192.450(1). Because the Department of Education has not denied such a request, the Attorney General has no authority to order disclosure.[2] Accordingly, we deny your petition as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS01045
c: Henry Kaplan, Attorney at Law
C. Gregory McMurdo, ODE
Cathy Brown, ODE

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[2] We have forwarded your petition, which refers to the documents you seek, to the department. We are informed by Greg McMurdo, Deputy Superintendent for Public Instruction, that someone from the department will contact you concerning your request.

The Public Records Law authorizes a state agency to establish fees to reimburse it for its actual costs in making records available, including the costs of copying records and the costs incurred by the agency for staff time in locating the requested records, reviewing the records in order to delete exempt material and supervising inspection of original documents. ORS 192.440(3).