THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

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

January 2, 1997

Robin Beth Berdahl
33865 McFarland Rd
Tangent, OR 97389

Re: ***Petition for Public Records Disclosure Order: Western Oregon State College Records***

Dear Ms. Berdahl:

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 on December 26, 1996, asks the Attorney General to direct Western Oregon State College (College) to make available the following records:

1. All correspondence, evaluations, and notes of conversations concerning you;

2. All administrative rules and procedures and written material concerning the Policies and Analysis Committee, including by-laws and any other material concerning the operation, conduct, and governing of the Policies and Analysis Committee;

3. All evaluations of you conducted by Dr. Bradfield-Kreider as well as anyone else who has evaluated you;

4. All faculty or staff hand-books, or any other written material that is given to or read by faculty or staff of the College's Elementary Education Department;

5. All faculty or staff hand-books or any other written material that is given to or read by any faculty or staff at the College;

6. All administrative rules and procedures governing the conduct of any staff member at the College;

7. All administrative rules and procedures governing the conduct of any staff in the College's Elementary Education Department; and

8. The document that shows that you were refused a placement at Oak Elementary School in Albany, Oregon.

For the reasons that follow, we respectfully deny your petition.

Dr. Meredith Brodsky, Dean of the College's School of Education, informs us that the College has not denied your records request. Dr. Brodsky and other administrators are in the process of reviewing the College's records to determine the extent to which the College can make available the records you request. Dr. Brodsky informs us that the College will respond to your request as soon as the College has made its determination.

It is reasonable for an agency to review its records in light of the exemptions from disclosure in the Public Records Law before responding to a public records request. Moreover, an agency is not deemed to have denied a request merely because the agency fails to comply with a deadline imposed by the requester. OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1995) at 15.

Absent a denial of a records request by a state agency, the Attorney General has no authority to order disclosure. *See* ORS 192.450. Because the College has not denied your request, your petition to order disclosure is premature. Accordingly, we deny your petition.[1/]

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel
to the Attorney General

SSB:AV/JGG0F1E7

c: Meredith Brodsky (WOSC)
Melinda Grier (OSSHE)

[1/] Your petition also requests that Corvallis School District 509J (District) be directed to make available certain records. The Attorney General has no authority to order disclosure of District