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DEPARTMENT OF JUSTICE
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January 29, 1997

Karen Schwartzrock
343 Hunington
Eugene, OR 97405

Re: ***Petition for Public Records Disclosure***
University of Oregon Records

Dear Ms. Schwartzrock:

This is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.505. Your petition, which we received on January 23, 1997, asks the Attorney General to direct the University of Oregon College of Education to produce copies of records relating to the following:

> For the employment periods of Summer 1996 and Academic Year 1996-97:
>
> Name, Position Title, FTE, Salary or Contract Payment, dates of employment or contract period, and nature of employment or contract for all faculty (adjunct, courtesy, or permanent; instructional or non-instructional), graduate teaching fellows, classified employees, consultants, and temporary employees involved in any capacity with the following DELTA or College of Education programs regardless of source of salary funding:
>
> - DELTA graduate programs or planning for future DELTA graduate programs (Masters and Doctorate) located on-campus or off-campus including those connected with Continuing Education
> - Undergraduate Teacher Education Program
> - Past, Current, or Planning for Future Basic and Standard Administrator Licensure Program including those connected with Continuing Education
> - Past, Current, or Planning for Future Basic and Standard Superintendent Licensure Program including those connected with Continuing Education
> - Administrative support for DELTA programs and activities

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

Absent a denial of a records request by a state agency, the Attorney General has no authority to order disclosure. *See* ORS 192.450; *Morse Bros. v. ODED*, 103 Or App 619,

798 P2d 719 (1990). We have been provided a copy of a letter dated January 21, 1997, from Dean Martin Kaufman of the College of Education to you. A copy of that letter is attached for your reference.

Dr. Kaufman's letter states that the College has identified a number of records that are responsive to your request and that those records will be provided to you upon payment of the estimated cost of making those records available to you.[1/] A public body may charge for its actual costs of making records available, ORS 192.440(3), and may require prepayment of those estimated costs before acting upon a records request. OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL 10-11 (1995). Dr. Kaufman's letter also states that certain records are exempt from disclosure under various statutes.

Because you make no reference to Dr. Kaufman's letter in your petition to this office, we assume that you had not received this letter when you sent your petition to us. As discussed above, Dr. Kaufman's letter states that the nonexempt records you request will be provided to you. Because the University has not denied your request, and we have no basis to assume that you disagree with Dr. Kaufman's determination that certain records are exempt from disclosure, we respectfully deny your petition to order disclosure as premature.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

MDP/AV:JGG0F450
c: Martin Kaufman, Dean, College of Education, University of Oregon
Bobbie Smith, College of Education, University of Oregon
Elaine Jones, College of Education, University of Oregon
Pete Swan, Assistant to the President for Legal Affairs, University of Oregon

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[1/] The letter indicates that a large number of records have been identified that contain information responsive to your request and that the estimated costs of making the records available is $697.90. It may be possible for you to rephrase your request to narrow the number of responsive records, thus reducing the costs. In doing so, it might be useful for you to keep in mind that the Public Records law requires the disclosure of "public records" (as that term is defined in ORS 192.410(4)) that are in existence at the time of the request; it does not require the agency to compile information.