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 7, 1997

Nancy Mayer
Family and Education Team
The Oregonian
1320 S.W. Broadway
Portland, OR 97219-9911

RE: Petition for Public Records Order

Dear Ms. Mayer:

This 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 February 28, 1997, asks the Attorney General to direct the State Office for Services to Children and Families (SCF) to provide you copies of the following records:

1. 1995 Baker Branch Review Report.

2. 1997 Malheur Branch Report.

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

We have been informed by Caleb Heppner, SCF Deputy Administrator, that the agency has agreed to promptly make available to you the Baker Branch Review. You should receive the report not later than March 10, 1997. Therefore, your petition to order disclosure of the Baker Branch Review is moot. Accordingly, we deny your petition for disclosure of the Baker Branch Review Report.

By letter dated February 19, 1997, Mr. Heppner advised you that the agency was "continuing to consult with our legal counsel" regarding disclosure of the Malheur Branch Review Report. By subsequent letter dated February 27, 1997, Mr. Heppner further advised you that your request for the Malheur Branch Review Report was "still pending SCF response." A request for advice has been forwarded to this office from SCF, and Assistant Attorney General Linda Guss will respond to that request.

It is reasonable for an agency to review its records and to obtain legal advice before making a decision on a records request. Moreover, an agency is not deemed to have denied a request merely because the agency does not comply with a deadline imposed by the requestor. 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 SCF has not denied your request for disclosure of the Malheur Branch Review Report, your petition to order disclosure is premature. Accordingly, we deny your petition for disclosure of the Malheur Branch Review Report.

Sincerely,

Elizabeth S. Harchenko

Elizabeth S. Harchenko
Special Counsel to the
Attorney General

LJG:AV/JGG0F831