



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**20-ORD-058**

April 20, 2020

In re: William Bell/ Graves County School Board

**Summary:** Graves County School Board (“Board”) did not violate the Open Records Act (“Act”) by making records available for inspection at the Board of Education when it was not requested to mail copies of the records. The Board did not violate the Act when it refused to honor requests for information, as opposed to requests for identifiable public records.

***Open Records Decision***

On January 31, 2020, William Bell (“Appellant”) requested from the Board copies of records, “verifying the payment for Occupational taxes to the city of Mayfield . . . for the period beginning January 1, 2016 through December 31, 2017.” Appellant clarified that he was seeking, “records . . . that include amounts paid, date each payment was made, copy of invoice/billing statements, copy of [Board] payment instrument(s), etc.” Appellant also posed questions regarding the role of Board attorney Jesse E. Wright, but the questions did not identify or seek any public records.

The Board responded to the records requests by stating that “financial documents are available for inspection at the office of the [Board] during normal business hours.” Regarding the questions posed, the Board stated that the “interrogatories contained in your request which do not contain a request for documents are not subject to the [Act] and no response to the same is provided.”

On February 3, 2020, Appellant initiated this appeal, stating that he expected copies of records and that his request was “very clear[.]” Appellant also posed questions to this Office regarding the appropriate role of a board attorney. On February 13, 2020, the Board responded by stating that it properly required Appellant, a resident of the county in which the records are located, to first inspect the records on-site, under KRS 61.872. The Board stated that the requests were open-ended and that it was difficult “to ascertain the full scope of documents requested.” To comply with the request, the Board agreed to make all financial records available for inspection. The Board stated that it properly denied responding to Appellant’s questions because they did not contain a request for an identifiable public record.

*First*, in the request Appellant attached to his appeal, he did not request the records by mail. Under the Act, “[i]f the person requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.” KRS 61.872(3)(b) (emphasis added). The Board complied with the Act by making the requested records available for inspection at its office. KRS 61.872(1).

*Second*, under KRS 61.872(1) “all public records shall be open for inspection by any person[.]” KRS 61.870(2) broadly defines “public records,” but the definition does not include “information.” *See Dept. of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013). As such, the Board was not required to answer Appellant’s questions under the Act. Accordingly, there was no violation.

Under KRS 61.880(2)(a) this Office is only authorized to “review the request and denial and issue...a written decision stating whether the agency violated provisions of [the Act].” Thus, this Office respectfully declines to respond to the questions Appellant posed to this Office regarding the role of a board attorney. Those issues are not within the scope of an open records appeal.

A party aggrieved by this decision shall appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceeding.

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Distributed to:

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