



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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20-ORD-160

October 13, 2020

In re: Glenn Hayden/Graves County School Board

**Summary:** The Graves County School Board (“Board”) discharged its duties under the Open Records Act (“the Act”) when it produced records responsive to a request. Appellant’s claims are unperfected and nonjusticiable in this forum.

*Open Records Decision*

KRS 160.180(2)(g) prohibits an individual’s membership on a school board if, at the time of his or her election, that individual “is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended[.]”

On August 27, 2020, Glenn Hayden (“Appellant”) requested records from the Board that would reflect each member certifying his or her compliance with the requirements of KRS 160.180(2)(g) “as of the date of the election.”<sup>1, 2</sup> On that same day, the Board produced a record, dated July 6, 2020, on Board letterhead and signed by every Board member, which stated, “[w]e, the members of the Graves County Board of Education, attest that we have no knowledge of any conflict of interest or nepotism within

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<sup>1</sup> More specifically, Appellant provided the Board a link to an informational publication by the Board that summarizes the provisions of KRS 160.180, and sought records from the Board certifying compliance with the policies in that publication. Since the publication references KRS 160.180, the Board interpreted Appellant’s request as one seeking records demonstrating compliance with KRS 160.180.

<sup>2</sup> Of course, members are elected at different times. However, Appellant did not specify which “election” he was referencing.

the Graves County Board of Education, as defined in KRS 160.180.” Shortly thereafter, the Superintendent also provided Appellant a copy of a blank affidavit routinely submitted to the Secretary of State and on which candidates for Board membership attest that they have no conflicts of interest that would preclude board membership. The Superintendent also directed Appellant to the records custodian for the Secretary of State to request copies of such affidavits, if any, executed by candidates seeking election this November. This appeal followed.

On appeal, Appellant states that he was seeking copies of the “Oath of Board Members,” referenced in KRS 160.170. That provision requires a specific written oath of office that each member must execute upon taking office, and further requires the Board to maintain copies of the executed oath. However, the oath makes no mention of certifying a lack of “interest[] in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended.” That language is found in KRS 160.180(2)(g), and Appellant specifically mentioned KRS 160.180 in his supplemental correspondence with the Board. Only after multiple email exchanges, and after the Board provided all records it believed responsive, did Appellant state that he was seeking copies of the oaths required by KRS 160.170. He then filed this appeal two days later, well before the statutory period for the Board’s response had expired.

Appellant’s request for copies of the oaths required by KRS 160.170 was not part of his original request, and he has failed to attach the agency’s response denying that request. For that reason, this issue is not properly before this Office. *See* KRS 61.880(2)(a) (requiring an Appellant to submit with his appeal the request and the agency’s denial); *see also* 19-ORD-200 (finding that an appeal filed prior to the expiration of the agency’s time to respond is a premature and unperfected appeal from which no decision can be rendered).

Regardless, the Board states that it provided what Appellant initially requested from the Board. The Board rightly states that, to the extent Appellant was seeking other documents, he failed to request those documents. In fact, the record before this Office demonstrates that the Board produced a record, executed by all current Board members, in which each member certified their compliance with KRS 160.180. Consistent with KRS 61.872(4), the Board also directed Appellant to the Secretary of State’s Office for copies of records related to candidates for membership on the Board who executed a similar certification.<sup>3</sup> Accordingly, the Board did not violate the Act.

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<sup>3</sup> Appellant also makes various allegations against the Board’s members. None of Appellant’s other claims may be adjudicated by this Office under the Open Records Act. *See* KRS 61.880(2)(a) (“The Attorney

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court per 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.

Daniel Cameron  
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Distributed to:  
Glenn Hayden  
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General shall review the request and denial and issue . . . a written decision stating whether the agency violated provisions of KRS 61.870 to 61.884.”).