



COMMONWEALTH OF KENTUCKY  
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**21-ORD-093**

May 18, 2021

In re: Stephen Zoglman/Daviess County Board of Education

**Summary:** The Daviess County Board of Education (the “Board”) violated the Open Records Act (“the Act”) as modified by Senate Bill 150 (“SB 150”) when it failed to respond to an open records request within ten days.

***Open Records Decision***

On April 9, 2021, Stephen Zoglman (“Appellant”) asked to inspect all emails and attachments to and from the Board and a specific email address, including emails in which that specific address was carbon copied. The Board did not respond. On April 20, 2021 the Appellant appealed to this Office.

Normally, a public agency must respond to an open records request within three business days. KRS 61.880(1). In response to the public health emergency caused by the Coronavirus, however, the General Assembly modified that requirement when it enacted SB 150, which became law on March 30, 2020. SB 150 provides, notwithstanding the provisions of the Act, that “a public agency shall respond to the request to inspect or receive copies of public records within 10 days of its receipt.” SB 150 § 1(8)(a). Under KRS 446.030, when the period prescribed by statute is seven days or less, weekends and legal holidays are excluded from the computations of time. Therefore, because SB 150 provides ten days to respond, weekends or holidays are not excluded from the computation of time and a response is due within ten calendar days of receipt.

On appeal, the Board admits it received the request on April 9, 2021 and that it failed to respond timely to the request. Because the Act, as modified by SB 150, requires public agencies to issue a written response approving or

denying a request within ten days, the Board's response was due on April 19, 2021. But the Board did not respond to the Appellant's request until April 21, 2021. Because the Board did not issue a timely written response within ten days of receipt, it violated the Act, as modified by SB 150.<sup>1</sup>

A party aggrieved by this decision may 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 proceedings.

**Daniel Cameron**  
**Attorney General**

/s/Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

J. Matthew Robbins  
Stephen Zoglman

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<sup>1</sup> On appeal, the Board provided responsive records. The Appellant only challenged the Board's failure to timely respond to his request.