



COMMONWEALTH OF KENTUCKY
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In re: *The Paintsville Herald*/East Kentucky Advanced Manufacturing Institute

Summary: In the absence of evidence that East Kentucky Advanced Manufacturing Institute (“Institute”) receives state or local funds, the Institute is not a public agency under the Open Records Act (“the Act”).

Open Records Decision

On April 12, 2021, *The Paintsville Herald* (“Appellant”) requested documentation of the Institute’s budget and expenditures for the prior two years and its estimated budget for the current year. The Appellant stated that the Institute was subject to the Act because it received funding from Eastern Kentucky Concentrated Employment Programs, Inc. (“EKCEP”). The Institute responded and claimed that it was not subject to the Act because the funds it received from EKCEP were federal funds, not state or local funds. This appeal followed.

On appeal, the Institute asserts that it is a private nonprofit institution and therefore it is not a “public agency” as defined in KRS 61.870 and it is not subject to the requirements of the Act. Under the Act, the definition of “public agency” includes “[a]ny body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds.” KRS 61.870(1)(h). The Appellant alleges that EKCEP funding, which the Institute receives, is provided through “state agencies, such as the Kentucky Energy and Environment Cabinet.” The Institute, however, states that all EKCEP funds that it receives are administered by the United States Department of Labor and the remainder of the funds it receives come from private donations. The Institute claims that it

receives “very little, if any, state or local funds . . . and certainly nowhere [near] the 25% threshold.”

The Appellant offers no evidence that the Institute qualifies as a “public agency” under the definition in KRS 61.870(1)(h), other than the undisputed fact that the Institute receives funding from EKCEP. There is no evidence that the EKCEP funds that the Institute receives come from a state or local government entity. Because the Institute is not a “public agency” as defined under KRS 61.870, it is not subject to the Act, and it was not required to comply with the Appellant’s request.

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
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/s/ James M. Herrick

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#157

Distributed to:

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