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21-ORD-126

July 12, 2021

In re: Vanessa Hurst/Nelson County School District

Summary: The Nelson County School District (the "District") did not violate the Open Records Act ("the Act") when it denied a request for any-and-all emails related to "workforce development" as unreasonably burdensome.

Open Records Decision

Vanessa Hurst ("Appellant") asked the District to allow inspection of records related to the District's "workforce team, workforce development and workforce readiness" including any "agenda, meeting minutes and email correspondence" between 2018 and 2021. The Appellant also requested data collected to "evaluate the demands of the future economy of our local and state community."

In response, the District provided the Appellant with copies of agendas and meeting minutes related to the workforce team, workforce development, and workforce readiness. However, the District denied the Appellant's request for emails regarding these subjects because such a request places "an unreasonable burden on [the District]" under KRS 61.872(6). Specifically, the District argues that the request is "overly broad in nature and would involve the searching and production of thousands of records." The Appellant then initiated this appeal.[1]

[1] In response to the Appellant's request to inspect data that has been collected to "evaluate the demands of the future economy of our local and state community," the District directed the Appellant to a webpage hosted by the Kentucky Center for Statistics, as well as a webpage hosted by the Kentucky Department of Education. The Appellant does not challenge the District's actions in responding to this portion of her request.

Under KRS 61.872(3)(b), a requester who seeks copies of public records to be delivered by mail must "precisely describe" the records which he or she wishes to receive. A requester seeking copies of public records by mail must frame his or her request with enough specificity that a public agency can determine which records are being sought and where such records are located. *See, e.g.*, 13-ORD-077; OAG 89-8. This Office has found that "a request for any and all records which contain a name, a term, or a phrase is not a properly framed open records request, and . . . generally need not be honored. Such a request places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records." 17-ORD-177 at *3 (quoting 99-ORD-14).

Here, the District explains that the phrases "workforce team," "workforce development," and "workforce readiness" are overly broad, and that such phrases would encompass virtually every record that was ever created by the District's Director of Workforce Development. To carry its burden, which must be met by clear and convincing evidence under KRS 61.872(6), the District provides a sworn affidavit executed by the Director of Workforce Development. She swears that "arguably 95% of everything [she] has done or produced is related to workforce development, workforce readiness, and economic development." She further identifies two other District employees whose duties primarily include workforce development. To search for records responsive to these broad phrases, the District must search "tens of thousands" of records created by the District's workforce development employees, and other administrators or teachers who may have also created responsive records. Then, the District would be required to review all of these records individually to determine whether an exemption applies to deny inspection of certain records. The District claims that it is willing to search for responsive records, but it invites the Appellant to narrow the scope of her search by describing the types of "workforce development" records that she seeks. This Office agrees that the Appellant's request for any-and-all emails that relate to such broad terms is unreasonably burdensome, because the request does not "precisely describe" the records sought, as required under KRS 61.872(3)(b). Therefore, the District did not violate the Act when it invited the Appellant to resubmit her request by precisely describing the records that she seeks.

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:

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