



COMMONWEALTH OF KENTUCKY  
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**22-ORD-019**

February 1, 2022

In re: Samuel G. Hayward, Jr./Labor Cabinet

**Summary:** The Labor Cabinet (“the Cabinet”) did not violate the Open Records Act (“the Act”) when it denied a request for unemployment insurance records that were confidential under KRS 341.190(4).

***Open Records Decision***

On January 3, 2022, attorney Samuel G. Hayward, Jr. (“Appellant”), requested to inspect or receive copies of all Unemployment Insurance referee decisions from 2020 and 2021 containing specific quoted language. The Cabinet denied the request on the grounds that referee decisions were confidential under KRS 341.190(4) and that the Appellant had not shown that he was entitled to obtain them under any of the exceptions provided in that statute. This appeal followed.

Under KRS 341.190, which is incorporated into the Act under KRS 61.878(1)(l), “[i]nformation obtained from an employing unit or individual and other records made by the cabinet in the administration of [KRS Chapter 341] are confidential and shall not be published or be open for public inspection, except as provided” in specific exceptions.<sup>1</sup> One of those exceptions is KRS 341.190(4)(b)3, which provides that “[a]n attorney retained by an individual or employing unit in any proceeding under this chapter shall be provided the individual’s or employing unit’s information and records if the attorney asserts

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<sup>1</sup> Additionally, federal law mandates confidentiality of “UC information which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars[.]” 20 CFR § 603.4(b).

in writing that he or she is representing that individual or employing unit.” Here, however, the Appellant does not claim to represent any individual or employing unit whose information is contained in the requested records.

This Office has previously found that referee decisions are confidential under KRS 341.190(4). *See, e.g.*, 10-ORD-158; 05-ORD-186. Because the Appellant has not shown that any exception to KRS 341.190(4) applies here, the Cabinet did not violate the Act when it denied 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 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

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

/s/ James M. Herrick

James M. Herrick  
Assistant Attorney General

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