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25-ORD-008

January 9, 2025

In re: Cristina Keith/University of Kentucky

Summary: The University of Kentucky (“the University”) violated the Open Records Act (“the Act”) when it failed to give a detailed explanation of the cause for delay and the earliest date when requested records would be available as required under KRS 61.872(5).

Open Records Decision

On November 18, 2024, attorney Cristina Keith (“the Appellant”) submitted a 64-part request for records to the University in connection with a pending termination proceeding against her client, a tenured faculty member. The following day, the University issued a response stating, “Given the number of parts [and] the breadth of [the] request, it will take AT LEAST thirty days to respond” (emphasis in original). This appeal followed.

Under KRS 61.880(1), a public agency must decide within five business days whether to grant a request or deny it. This time may be extended under KRS 61.872(5) when records are “in active use, in storage or not otherwise available” if the agency gives “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record will be available for inspection.” In light of this provision, the Attorney General has recognized that persons requesting large volumes of records should “expect reasonable delays in records production.” 12-ORD-228. However, the reasonableness of such a delay “is a fact-intensive inquiry.” 21-ORD-045. A vague statement about the volume of a request is not a “detailed explanation” under KRS 61.872(5). *See, e.g.*, 22-ORD-164; 17-ORD-194. Thus, the University’s cursory response referring only to “the number of parts [and] the breadth of [the] request” failed to provide the “detailed explanation” required by KRS 61.872(5). Furthermore, the University failed to give a specific date

by which records would be available for inspection, as required under KRS 61.872(5). Therefore, the University violated the Act.¹

A party aggrieved by this decision may appeal it by initiating an 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 emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

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Ms. Amy R. Spagnuolo

¹ On December 13, 2024, the University issued its final response to the Appellant's request, granting some portions of the request and denying others. The merits of that response are not at issue in this appeal.