



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-012

January 13, 2025

In re: David Webster/Christian County Public Schools

Summary: Christian County Public Schools (“CCPS”) subverted the intent of the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), when it did not respond to a request within five business days, and when it invoked KRS 61.872(5) but failed to give a detailed explanation of the reason for delay or dispense with the request on the date by which it had said records would be available for inspection.

Open Records Decision

On November 22, 2024, David Webster (“Appellant”) submitted a request to CCPS seeking “the group text message thread, including attachments, exchanged between” the Superintendent of CCPS, “Board members of Districts 1 through 5,” the Superintendent’s secretary, and the CCPS board attorney from the date the Superintendent assumed office to the date of the request. CCPS initially responded on December 3, 2024, stating that, although the request was so broad as to place “an unreasonable burden” on CCPS, it would provide non-exempt records within “an additional three business days.” Three business days later, on December 6, 2024, CCPS informed the Appellant that it was “still gathering and processing” responsive records and would provide them on December 9, 2024. On December 9, 2024, CCPS again informed the Appellant that it would need additional time, stating that responsive records would be provided on December 11, 2024. This appeal followed.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s

action if the “person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.”

Here, although CCPS did respond to the request within five business days, it did not give a detailed explanation of the cause for further delay, nor did it invoke KRS 61.872(5). And although CCPS stated the earliest date on which the records would be available for inspection, it did not make any records available by that date. Moreover, it missed the second date on which it stated records would be available for inspection. The Office has found that a public agency does not comply with KRS 61.872(5) when it notifies the requester of the earliest date on which requested records would be available but then misses its self-imposed deadline. *See, e.g.*, 23-ORD-079; 21-ORD-011. Therefore, CCPS subverted the intent of the Act by delay and excessive extensions of time, within the meaning of KRS 61.880(4), when it failed to invoke KRS 61.872(5) or make a final disposition of the Appellant’s request by the date on which it said the records would be made available.¹

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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

¹ After this appeal was initiated, the Appellant informed the Office that CCPS had issued a final response providing the requested records with numerous redactions. Under KRS 61.880(2)(a), this Office’s mandate is to review the request for records and the agency’s response to determine whether the agency violated the Act. In finding CCPS’s initial responses to the request subverted the Act, the Office has carried out its mandate. The Office declines to consider here the new issues raised for the first time on appeal regarding the sufficiency of CCP’s final response. *See, e.g.*, 25-ORD-010; 23-ORD-333 n.1; 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (stating the Office may decline to consider new issues raised by the parties’ subsequent correspondence on appeal). If the Appellant believes CCPS’s final response was insufficient, he may initiate a separate appeal by providing the Office with a copy of his original request and CCPS’s final response. *See* KRS 61.880(2)(a).

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Distributed to:

David Webster

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