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25-ORD-052

February 27, 2025

In re: Ashley Gruner/Northern Kentucky University

Summary: Northern Kentucky University (“the University”) violated the Open Records Act (“the Act”) when it did not grant or deny the Appellant’s request within five business days. The University also violated the Act, within the meaning of KRS 61.880(4), when it required a request to be resubmitted using a specific form.

Open Records Decision

On December 29, 2024, Ashley Gruner (“Appellant”) submitted a request to the University seeking the University’s “contracts with non-university transportation companies” related to three categories of transportation. The Appellant stated that she was submitting her request as a “resident of Kentucky” and stated that the “information is not being sought for commercial purposes.” In response, on January 7, 2025, the University asked the Appellant to resubmit her request using the Office’s standardized form¹ and advised that it would “process [her] request” if she “satisf[ies] the requirements of Kentucky residency.”

On January 28, 2025, the Appellant confirmed that she “lives” in Kentucky. The next day, the University stated, “[a]ll requests to inspect public records must be made” using the standardized form and use of the form “helps us to understand the purpose of your request, i.e., whether for a commercial purpose or not.” Finally, the University stated, “Once [the Appellant] complete[s] the required form, we will begin gathering the requested records.” This appeal followed.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the

¹ “Standardized form” refers to the form promulgated by the Office. See KRS 61.876(4).

person making the request, within the five (5) day period, of its decision.” Further, under KRS 61.872(2)(c), “[a] public agency shall not require the use of any particular form for the submission of an open records request.” The Office has also found that a public agency misdirects requesters, within the meaning of KRS 61.880(4), when the agency requires the use of a particular online form to submit requests under the Act. *See, e.g.*, 22-ORD-167.

On appeal, the University asserts it did not require the Appellant’s request to be submitted using a particular form but, instead, asked that the standardized form be used “to confirm [the Appellant’s] residency and identify whether the records would be used for a commercial purpose.” However, the Appellant stated in her December 29 request that she is a “resident of Kentucky” and confirmed on January 28 that she “lives” in Kentucky. Moreover, her original request stated that the “information is not being sought for commercial purposes.”² Despite the Appellant’s provision of the required information, the University maintained that “[a]ll requests to inspect public records must be made” using the standardized form. Accordingly, the University violated the Act when it did not grant or deny the Appellant’s December 29 request within five business days. Further, the University subverted the Act, within the meaning of KRS 61.880(4), when it erroneously required the Appellant to use a particular form contrary to KRS 61.872(2)(c).³

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

² On appeal, the University explains that, “[d]ue to an oversight,” it believed the Appellant had not originally stated whether her request was for a commercial purpose.

³ After the appeal was initiated, the University produced all responsive records.

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Distributed to:

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