I. Purpose

Public policy requires the "free and open examination of public records." KRS 61.871. Accordingly, the Office of the Attorney General ("Office") must respond effectively and efficiently to records requests in a consistent and coordinated manner. Therefore, this Open Records Policy ("Policy") sets forth the standards for all Office employees when a records request is received and ensures compliance with all applicable open records laws.

II. Applicability

This Policy supersedes any relevant policy that previously existed. All employees shall read this policy and complete the Policy Acknowledge Form to indicate that they have read, understand, and will comply with this Policy.

III. Policy

A. Records Custodian

The Office shall designate an employee as its Records Custodian. The Records Custodian shall review the Kentucky Open Records Act, 200 KAR 1:020, and "Your Duty Under the Law – The Kentucky Open Records Act and Open Meetings Act," published by the Office. The Records Custodian shall ensure compliance with the Kentucky Open Records Act, 200 KAR 1:020, this Policy, and all relevant requests. The Records Custodian shall not participate in the adjudication of an appeal under the Act.

The Office designates the following Records Custodian:

Brystin Denguessi Kwin
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
(502) 696-5300
brystin.kwin@ky.gov

B. Tracking Records Requests

Employees shall date-stamp any request to inspect or otherwise obtain records upon receipt and deliver the request immediately to the Records Custodian. If the Records Custodian is absent on the date of receipt, the request shall be delivered to an alternate records custodian. If an employee is uncertain whether a request qualifies as an Open Records Request, or does not specifically invoke the Open Records Act but appears to request records, the employee shall immediately refer the request to the Records Custodian for a preliminary determination.

The Records Custodian shall notify the Communications Director of requests made by any member of the media. In addition, the Records Custodian shall determine whether the request relates to pending litigation handled by the Office. If so, the Records Custodian shall notify the attorney or attorneys handling such litigation.

The Records Custodian shall maintain a records request tracking spreadsheet to organize and track records requests. The Records Custodian shall update the records request spreadsheet with a new request no later than the close of business on the date the request is received by the Records Custodian. The Records Custodian shall assign a specific identification number to the request (*e.g.*, 2019-003).

C. Responding to Records Requests

All requests for copies or review of public records in the custody of the Office must be made in writing. A request may be sent electronically to kyoagor@ky.gov. Email requests for records should include a mailing address and electronic signature. Requests may also be mailed to the Office or hand delivered to 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601-3449, from 8:00 a.m. to 4:30 p.m., Monday through Friday, each week, except holidays (Attn.: Records Custodian).

The Records Custodian shall provide a response to the records request that is postmarked or electronically transmitted within the number of business days required by law. The Records Custodian shall promptly notify the requesting party if additional time is needed under KRS Chapter 61. When a response is delayed, the notice shall specifically indicate that additional time is required to process the request and explain the circumstances justifying additional processing time.

The Records Custodian shall determine whether the requester has reasonably described records within the possession of the Office. If no such records are identified, the request may be denied on those grounds. However, if it is reasonably believed that another state agency is in possession of the records described in the request, the Records Custodian shall refer the requester to the appropriate records custodian, providing their contact information if available.

If it is determined that the records are within the Office's possession, the Records Custodian shall gather them for processing. Records that are responsive shall be segregated from nonresponsive records (*i.e.*, records that were not requested). The Records Custodian shall then examine responsive records to determine which records, if any, are exempt from disclosure and make appropriate redactions.

If the Records Custodian determines that the records request should be denied in whole or in part, the Records Custodian shall notify the requester with an explanation for the decision to

withhold any responsive records, citing the specific exemption in statute as the basis for withholding. If any part of a request for records is denied, the Records Custodian shall confer with legal counsel to ensure accuracy in applying the law.

If the request places an unreasonable burden for producing public records, or if the Records Custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the Office, the Records Custodian may refuse to produce the records upon conferring with legal counsel prior to denying the request.

D. Records Production

When responsive records are to be transmitted electronically to the requester, there is no charge to the requester and the records may be provided via an email address provided by the requester. However, if the volume of responsive material is too large to be transmitted by email, the documents may be produced through an online cloud-sharing service.

When responsive records are to be mailed to the requester, the Records Custodian may first provide an invoice to the requester for the production and postage. Printing costs are $0.10 per page, and additional fees shall be justified on an invoice. Copies of photographs, maps, and other such records shall be furnished to any person requesting them on payment of a fee equal to the Office's actual cost to produce the copies. Estimated costs shall be communicated to the requester before costs are incurred. After the invoice is paid, the Records Custodian shall produce the responsive records to the requester.

If the requester wishes to personally inspect responsive records at the location where the records are maintained, the Records Custodian shall facilitate with the requester the scheduling of a convenient time and place for inspection. The Records Custodian, or an employee of the Office, shall be present and personally monitor the inspection.