



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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22-ORD-010

January 7, 2022

In re: Mary Talbott/University of Kentucky

Summary: The University of Kentucky (the “University”) violated the Open Records Act (“the Act”) when it did not issue a timely response to a request under the Act. This Office is unable to resolve a factual dispute between the parties as to whether or not the records that have been provided are different from those records sought but not provided.

Open Records Decision

On November 22, 2021, Mary Talbott (“Appellant”) submitted a request to the University for “[a]ll records . . . at the University related” to a specific person. The Appellant specified that the scope of her request should include “letters, notes, communications, call logs, work logs, emails, text messages, recordings, reports and any other such communications and documents” as well as “written, digital, electronic, recorded” records. The Appellant also attached a list containing 26 subparts of records she also sought related to the same person. On December 9, 2021, having received no response from the University, this appeal followed.

Under KRS 61.880(1), a public agency must respond to a request made under the Act within five business days of receipt of the request. Here, the University did not respond within five business days. Thus, it violated the Act.

On appeal, the University claims to have provided the Appellant with all responsive documents in its possession. However, the Appellant claims that she is “not certain [she] received all the attachments[.]” Moreover, the

Appellant “believe[s] [the University]’s response is deficient” because it does not include “many records requested[.]” For example, the Appellant contends that the University did not provide all requested emails.

Historically, this Office has found that it is unable to resolve this type of factual dispute between parties. *See, e.g.*, 19-ORD-083 (stating this Office cannot “resolve the factual dispute between the parties regarding the disparity between records which have been provided and those sought but not provided”). Accordingly, this Office is unable to resolve the factual dispute between the parties that the records the Appellant received are different from those records she requested but was not provided.

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 emailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

/s/Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Mary Talbott
William E. Thro