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22-ORD-112

May 23, 2022

In re: David Webster/Christian County Board of Education

Summary: The Christian County Board of Education (“the Board”) did not violate the Open Records Act (“the Act”) when it redacted bank account numbers from purchase orders, as the disclosure of account numbers places an unreasonable burden on a public agency.

Open Records Decision

On April 13, 2022, David Webster (“Appellant”) requested that the Board provide “any and all communications between [Christian County Public Schools] and” the owner of a video production company called CCPRO Video, between May 2021 and April 2022, “includ[ing] but not limited to: text messages, emails, invoices, payments and publications.” In its response to the request, the Board stated that it had withheld under KRS 61.878(1)(i) and (j) “[i]ntra-agency emails and other correspondence involving school district personnel” and “[c]orrespondence with private individuals” which contained “observations, mental impressions, opinions, personal notes, requests, and advisory statements” that “did not represent final agency action, did not communicate final agency action, and was not adopted by or incorporated into final agency action.” Under KRS 61.878(1)(a) and (r), the Board withheld “information of a purely personal nature and private health-related information related to district personnel.” This appeal followed.

On appeal, the Appellant does not contest the withholding of information under KRS 61.878(1)(a) or (r), but argues that the Board violated the Act in two ways. First, the Appellant complains that the Board redacted bank account numbers from purchase orders, because he believes that “the account [the Board] uses for payments is public information.” Second, the

Appellant asserts that the owner of CCPRO Video is a “private individual,” and the Appellant does not believe “his communications are covered under the preliminary disclosure.”

With regard to the account numbers, this Office has consistently found that disclosure of bank account numbers used by a public agency “places an unreasonable burden” on the agency within the meaning of KRS 61.872(6) because “public money would be at risk of theft” and the “agency would be forced to change bank accounts and change the paperwork associated therewith.” *See* 16-ORD-012; *see also* 06-ORD-167. Accordingly, the Board did not violate the Act by redacting bank account numbers from the purchase orders provided to the Appellant.

As to the correspondence, the Board asserts on appeal that it has provided all of “the actual content of the communications between” the owner of CCPRO Video and the Christian County Public Schools, redacting only that owner’s contact information, consisting of his private address, telephone number, and e-mail address, as well as “the link to his business’s online video account[s] and the respective passwords for those account[s].” The Board does not assert that the redacted information is “preliminary” under KRS 61.878(1)(i) or (j), but that it is exempt under KRS 61.878(1)(a) as “information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy,” or under KRS 61.878(1)(r) as “[c]ommunications of a purely personal nature unrelated to any governmental function.” In addition, the Board states that photographs of students have been redacted as “education records” under the Federal Education Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, which is incorporated into the Act under KRS 61.878(1)(k).

The Appellant has not questioned any redactions made by the Board on the basis of privacy, purely personal communications, or FERPA, but only asserts that the correspondence with the owner of CCPRO Video is not “preliminary” under KRS 61.878(1)(i) or (j). But the only documents for which the Board asserts an exemption under KRS 61.878(1)(i) or (j) are intra-office communications, which are outside the scope of the Appellant’s request. Therefore, because the Board has not withheld any material from the requested records under KRS 61.878(1)(i) or (j), but has provided the entire substance of the communications in question, this portion of the appeal is moot. Accordingly, this Office finds that the Board did not violate the Act.

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 e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

s/James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

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