



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-245

September 15, 2023

In re: Demetrius Harrison/Estill County Board of Education

Summary: The Office cannot find that the Estill County Board of Education (“the Board”) violated the Open Records Act (“the Act”) when it did not respond to a request to inspect records it claims it did not receive.

Open Records Decision

Demetrius Harrison (“Appellant”) claims that, on March 31, 2023, he submitted a request to the Estill County High School to obtain copies of his education records. He further claims he has received no response to his request as of August 13, 2023, despite having made “several calls” and “was told a reply would be forth coming [sic].” Accordingly, he filed this appeal.

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 person making the request, within the five (5) day period, of its decision.” KRS 61.880(1). On appeal, the Board claims there is “no record” of the request “being received by” the Board. However, now that the Board is aware of the request, it is “in the process” of producing the requested records to the Appellant. The Office has routinely found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the public agency received the request. *See, e.g.*, 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Accordingly, the Office cannot find that the Board violated the Act when it did not respond to a request it claims it did not receive.

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.

Daniel Cameron
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s/ Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

Demetrius Harrison
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