



COMMONWEALTH OF KENTUCKY
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23-ORD-247

September 15, 2023

In re: Mark Graham/Christian County Board of Education

Summary: The Office cannot find that the Christian County Board of Education (“the Board”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual disputes between the parties.

Open Records Decision

On August 9, 2023, Mark Graham (“Appellant”) submitted a request for records to the Board. On August 17, 2023, having received no response from the Board, the Appellant initiated this appeal.

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 person making the request, within the five (5) day period, of its decision.” Here, the Appellant claims he submitted a request to the Board on August 9, 2023, and that it did not respond to his request. On appeal, the Board claims that, on August 9, 2023, it received a similar but different request from the Appellant and that it issued a timely response to that request on August 16, 2023. As proof, the Board provides a copies of the Appellant’s August 9 request and its August 16 response.

The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency. *See, e.g.*, 23-ORD-192 (dispute as to whether a requester received a response to his request); 23-ORD-071 (dispute as to whether a public agency received a request). The Appellant claims he submitted a request to the

Board and it did not respond to that request. In contrast, the Board claims it did not respond to that request because it did not receive it, but nevertheless timely responded to a similar request. Accordingly, the Office cannot find that the Board violated the Act because the Office cannot resolve the factual disputes between the parties.

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
Attorney General

s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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