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25-ORD-037

February 11, 2025

In re: Tanyqua Oliver/Fayette County Public School System

**Summary:** The Fayette County Public School System (“FCPS”) did not violate the Open Records Act (“the Act”) when it denied a request seeking information without describing public records to be inspected. The Office cannot find FCPS violated the Act when it claims to have provided all records responsive to a request.

***Open Records Decision***

Tanyqua Oliver (“Appellant”) submitted a request to FCPS containing two subparts. The first subpart asked “how many black children has FCPS transferred to” a particular school without “due process or a hearing” and for “[h]ow many years” has that been FCPS’s practice. The second subpart asked, for the location of a particular policy related to hearings held prior to expulsions or suspensions. FCPS partially granted the request and provided responsive records. The Appellant claimed FCPS “refused to answer both general questions completely” and initiated this appeal.

Regarding subpart one of the request, FCPS states the Appellant “sought information, not records.” The Office agrees. The Appellant asked how many students were affected by an alleged policy and how long that alleged policy had been in effect. This portion of the request did not describe public records to be inspected, but rather, seeks information. *See, e.g.*, 23-ORD-257 (requester asked for “the full names” of correctional officers on duty at a specific time); 22-ORD-054 (requester asked “who ordered” a letter to be written, how much the author was paid, and “why” the letter “was circulated”). The Act does not require public agencies to answer interrogatories or fulfill requests for information. Rather, it only requires public agencies to *produce public records* for inspection. *See* KRS 61.872(2)(a) (requiring a request to inspect records to include, *inter alia*, a description of “the records to be inspected”); *Dep’t of*

*Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) (“The [Act] does not dictate that public agencies must gather and supply information not regularly kept as part of [their] records.”). Accordingly, FCPS did not violate the Act when it denied the Appellant’s request because it did not describe any public records to be inspected.

Turning to subpart two, FCPS granted the request and provided the Appellant a copy of “Board Policy 09.12 (Admission and Attendance),” explaining that “a student who faces charges that may lead to suspension or expulsion but withdraws from FCPS prior to a hearing on those charges, and subsequently seeks admission [to FCPS], will be reviewed to determine whether the student will be admitted, and if so, what conditions may be imposed upon their admission.” The Appellant appealed this response, claiming FCPS “refused to answer both general questions completely.” The Office has long held that it cannot resolve factual disputes about whether all records responsive to a request have been provided, or whether requested records should contain additional content. *See, e.g.*, 22-ORD-010; 19-ORD-083; 03-ORD-061; OAG 89-81. Accordingly, the Office is unable to find FCPS violated the Act when it provided what it considered to be all records responsive to the Appellant's request.

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](mailto:OAGAppeals@ky.gov).

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

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