



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-123

May 14, 2025

In re: Melanie Barker/Cabinet for Health and Family Services

Summary: The Cabinet for Health and Family Services (“the Cabinet”) violated the Open Records Act (“the Act”) when it failed to issue a response to two requests to inspect records within five business days of receiving them.

Open Records Decision

On March 31, 2025, Melanie Barker (“Appellant”) submitted a nine-part request to the Cabinet for records related to the “Employee Child Care Assistance Partnership Program.” On April 8, 2025, the Appellant submitted a request to the Cabinet for “the contract between [the Cabinet] and United Way of the Bluegrass” and any records showing the amount of money given to United Way of the Bluegrass by the Cabinet for each year since 2019. On April 16, 2025, having received no response to her requests, the Appellant initiated this appeal.

On April 16, 2025, after the Appellant initiated her appeal, the Cabinet responded to the Appellant’s March 31 and April 8 requests. The Appellant subsequently challenged the Cabinet’s response to one part of her March 31 request. That part requested the document that shows “all of the [e]mployers that have utilized” the Employee Child Care Assistance Partnership Program. The Cabinet advised that it did not possess records responsive to this request.¹

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

¹ On appeal, the Cabinet states that it created and provided to the Appellant a list responsive to this part of her request. Thus, this portion of the Appellant’s appeal is now moot. See 40 KAR 1:030 § 6

person making the request, within the five (5) day period, of its decision.” Here, the Appellant submitted her requests to the Cabinet on March 31 and April 8, 2025, but did not receive a response as of April 16, 2025, the sixteenth and sixth business days, respectively, following submission of her requests. The Cabinet does not assert that it responded prior to April 16, 2025. Accordingly, the Cabinet violated the Act when it failed to respond to the Appellant’s requests within five business days.²

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.

Russell Coleman
Attorney General

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

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Distributed to:

Melanie Barker

Peyton Sands, Staff Attorney III, Cabinet for Health and Family Services

Evelyn L. Miller, Legal Secretary, CHFS Open Records, Cabinet for Health and Family Services

² On April 17, 2025, the same day the Appellant initiated this appeal, she copied the Office and multiple other Kentucky government agencies on an email to a Cabinet employee. That communication stated that the documents produced in response to a different request of hers were “not good enough.” The email did not show a clear intent to initiate an appeal to the Office. Accordingly, the Office declines to interpret this communication as an appeal. If the Appellant does wish to initiate a separate appeal concerning this other request, she may do so by providing the Office with a copy of her original request and the Cabinet’s final response. *See* KRS 61.880(2)(a).