



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

25-ORD-142

May 30, 2025

In re: Merissa Henderson/Gateway Children's Advocacy Center

Summary: The Gateway Children's Advocacy Center ("the Center") violated the Open Records Act ("the Act") when it failed to appropriately respond to a request under the Act.

Open Records Decision

On April 16, 2025, Merissa Henderson ("Appellant") submitted a request to the Center for all records in its possession "concerning her children." The Appellant specified that responsive records include forensic interview recordings, transcripts, interviewer notes, intake assessments, agency reports, communication logs, and any records that reference the Appellant. In response, on April 23, 2025, the Center stated it would begin compiling responsive records and advised that "[t]his process can take up to 30 days." On May 1, 2025, this appeal followed.

A public agency has five business days from the receipt of a request for public records made under the Act to fulfill the request or deny it and explain why. KRS 61.880(1). A public agency can delay its production of responsive records beyond five business days if the records are "in active use, in storage or not otherwise available," but it must "immediately notify the applicant" and give "a detailed explanation of the cause . . . for further delay . . . and earliest date on which the public record[s] will be available for inspection." KRS 61.872(5).

Here, the Center notified that Appellant that it would "take up to 30 days" to issue a response to her request. However, the Center did not specifically invoke KRS 61.872(5) or notify the Appellant of the earliest date on which the public records

would be available. As a result, the Center violated the Act when it failed to properly invoke KRS 61.872(5) to delay its production of public records.¹

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

#190

Distributed to:

Merissa Henderson
Diane Rogers, Executive Director, Gateway Children's Advocacy Center

¹ In its response on appeal, the Center advises that it has produced all responsive records to the Appellant, except for the forensic interview that it states is exempt under KRS 620.050(6). The appeal is moot as to the records produced. *See* 40 KAR 1:030 § 6 ("If the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter."). Regarding the withheld forensic interview, the Appellant states she "expressly excluded any request for the interview recording itself." Thus, the Center's withholding of that recording is not at issue in this appeal.