



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-206

July 31, 2025

In re: Mark Dungan/Lake Cumberland Regional Hospital

Summary: The Office cannot find that Lake Cumberland Regional Hospital (the “Hospital”) violated the Open Records Act (“the Act”) because the Office cannot find that it is a “public agency” subject to the Act.

Open Records Decision

On May 9, 2025, inmate Mark Dungan (“Appellant”) submitted a request to the Hospital for a “free copy of [his] medical records.” On June 25, 2025, having received no response from the Hospital, the Appellant initiated this appeal.

“Each *public agency*, upon any request for records made under [the Act], 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) (emphasis added). Here, the Appellant claims the Hospital violated the Act because it did not respond to his request in writing or provide him with the requested records. However, an entity is only subject to the Act if it is a “public agency,” as defined by KRS 61.870(1).

A private entity, such as the Hospital, can only become a “public agency” subject to the Act if it is a “body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds.” KRS 61.870(1)(h). The requester carries the burden to make a *prima facie* case that, in the fiscal year covering the scope of his or her request, at least 25% of the funds the entity expended were from state or local funds. *See, e.g.*, 23-ORD-070; 21-ORD-173. Here, the Appellant did not attempt to make such a *prima*

facie case. Thus, the Office cannot find that the Hospital is a public agency subject to the Act.

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
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Distributed to:

Mark Dungan #025416
Lake Cumberland Regional Hospital