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25-ORD-259

September 16, 2025

In re: Jeff Sullivan/University of Kentucky

Summary: The University of Kentucky (“the University”) violated the Open Records Act (“the Act”) when it denied a request for records as unreasonably burdensome.

Open Records Decision

Between April 16 and May 22, 2025, Jeff Sullivan (“Appellant”) submitted a multi-part request to the University seeking records related to his previous employment with the University. Relevant to this appeal, the Appellant submitted seven unique requests for emails. Those requests sought (1) emails between the Appellant and two specific individuals between January 1, 2022, and December 31, 2024, (2) all emails received by the Appellant and one other individual between January 1, 2022, and December 31, 2024, (3) all emails between the Appellant’s University email address and an identified individual, (4) emails between two specific individuals between October 1, 2024, and December 31, 2024, containing the words “Jeff” or “Sullivan,” (5) emails between two specific individuals between June 1, 2024, and December 31, 2024, containing the words “Jeff” or “Sullivan,” (6) all emails sent to or from three specific individuals containing the words “Jeff” or “Sullivan,” and (7) any communications between the Appellant and two specific individuals between January 1, 2023, and December 31, 2024.¹

The University denied the Appellant’s requests for emails “on the grounds it is unreasonably burdensome, pursuant to KRS 61.872(6).”² This appeal followed.

¹ Regarding the first two requests, the Appellant later, at the University’s request, limited his request to those emails containing the first and last names of a two specific individuals and the keywords “accommodation, discriminatory, retaliation, sullivanjeff@hotmail.com, complaint, IT, hacking, hacked, stolen, and performance.”

² The Appellant submitted several other requests to the Office that he provided as part of this appeal. The University stated that it has provided records responsive to “all other requests” with

Under KRS 61.872(6), a public agency may deny a request to inspect records “[i]f the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency.” However, an agency must substantiate its denial “by clear and convincing evidence.” *Id.* When determining whether a particular request places an unreasonable burden on an agency, the Office considers the number of records implicated, whether the records are in a physical or electronic format, and whether the records contain exempt material requiring redaction. *See, e.g.*, 97-ORD-088 (finding a request implicating thousands of physical files pertaining to nursing facilities to be unreasonably burdensome, where the files were maintained in physical form in several locations throughout the state, and each file was subject to confidentiality provisions under state and federal law). In addition to these factors, the Office has found that a public agency may demonstrate an unreasonable burden if it does not catalog its records in a manner that will permit it to query keywords mentioned in the request. *See, e.g.*, 96-ORD-042 (finding that it would place an unreasonable burden on the agency to manually review thousands of files for the requested keyword to determine whether such records were responsive). When a request does not “precisely describe” the records to be inspected, KRS 61.872(3)(b), the chances are higher that the agency will be incapable of searching its records using the broad and ill-defined keywords in the request.

The University limits its explanation of its denial solely to its assertion that each of the seven requests for emails fails to precisely describe the records sought. According to the University, the requests as currently framed are likely to capture “many records which are unresponsive to the request.”

A description is precise “if it describes the records in definite, specific, and unequivocal terms.” 98-ORD-17 (internal quotation omitted). This standard may not be met when a request does not “describe records by type, origin, county, or any identifier other than relation to a subject.” 20-ORD-017 (quoting 13-ORD-077). Requests for any and all records “related to a broad and ill-defined topic” generally fail to precisely describe the records. 22-ORD-182; *see also* 21-ORD-034 (finding a request for any and all records relating to “change of duties,” “freedom of speech,” or “usage of signs” did not precisely describe the records); *but see Univ. of Ky. v. Kernel Press, Inc.*, 620 S.W.3d 43, 48 n.2 (Ky. 2021) (finding a request was proper when it sought “all records detailing [the] resignation” of a specific employee). A request that does not precisely describe the records “places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records.” 99-ORD-14.

redactions made under KRS 61.878(1)(a). The Appellant has not challenged any specific redaction made under KRS 61.878(1)(a).

The Office has previously found that a request for correspondence to or from certain named individuals within a specific timeframe and containing certain keywords “precisely describe[d]” the records requested. *See, e.g.*, 23-ORD-006 (considering a request for all communications to or from 13 individuals for a three-year period, containing eight unique search terms); *see also* 23-ORD-010 (finding a request for all correspondence between 13 individuals “related to or mentioning” a former employee for an 18-month period precisely described the records). Likewise, the Office has previously held that requests for communications between individuals precisely describe the records sought. *See, e.g.*, 23-ORD-230 (finding a request for all emails sent to an agency’s roughly 30 employees from 14 individuals precisely described the records); 24-ORD-199 (finding a request for communications between an agency and 13 individuals precisely described the records).

Here, requests 1, 2, 4, 5, and 7 sought records between certain individuals, containing certain keywords, and within a specific timeframe. Accordingly, each of those requests precisely described the records sought. Request 6 sought records between certain individuals that contained certain keywords. Accordingly, it also precisely described the records sought. Finally, request 3 sought all records sent between two named individuals. Although less precise than the other requests challenged in this appeal, it is more precise than the requests considered in 23-ORD-230 and 24-ORD-199. Although the University has asserted that the requests are likely to capture “many records which are unresponsive to the request,” it has not explained the basis for concluding that certain records are “unresponsive.” Rather, each of the Appellant’s requests for email communications precisely described the records sought in a manner sufficient for the University to ascertain the nature and scope of the Appellant’s request.

The University states further that fulfilling the request would be unreasonably burdensome because it “would have to engage in substantial redactions.” According to the University, “it is likely that most of the records will be exempt as preliminary.” However, the University has not stated how many records are implicated by the Appellant’s request. Although the number of records at issue is not the only factor the Office considers, it is the most important one. *See, e.g.*, 22-ORD-182. Stating only that many of the records will be exempt as preliminary, without estimating or quantifying the number of records at issue, does not provide clear and convincing evidence that the request is unreasonably burdensome.³

³ It may be the case that the request does, in fact, implicate so many records that collecting them and performing the necessary redactions would be unreasonably burdensome. But, the public agency always bears the burden of proof to sustain its action in an open records appeal. KRS 61.880(2)(c). The Office cannot assume, absent any explanation by the agency, that a request or series of requests implicates a number of records that would be unreasonably burdensome to obtain.

At bottom, the Appellant's requests for emails were sufficiently precise for the University to ascertain which records were responsive to the request. The University has not presented clear and convincing evidence that the request is unreasonably burdensome. As such, the University violated the Act when it denied 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.

**Russell Coleman
Attorney General**

/s/ Zachary M. Zimmerer
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Distributed to:

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