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25-ORD-315

October 16, 2025

In re: Jeremiah Smith/University of Kentucky

Summary: The University of Kentucky (“the University”) violated the Open Records Act (“the Act”) when it withheld requested records that “relate[d] to” the requesting University employee within the meaning of KRS 61.878(3).

Open Records Decision

Jeremiah Smith (“the Appellant”), a University employee, submitted a request to the University for a copy of the final report from an internal audit resulting from the Appellant’s allegation that grant funds had been inappropriately used to cover his own “internal retention contract” instead of the salary of one of his researchers. He also requested “all associated notes, communications and records (electronic or written) that were collected in the course of [the] investigation.” In a timely response, the University provided the final report but stated that “all notes and communications are considered exempt from disclosure pursuant to KRS 61.878(1)(i) and (j) as they were not part of the final report.” The Appellant, citing 25-ORD-047, replied that he believed those exemptions did “not extend to anything recorded in email communications between [University] employees, except for possibly in cases where these are with private individuals.” The University stated it “stands by its original response.” This appeal followed.

Under KRS 61.878(3), “[n]o exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees[,] to inspect and to copy any record including preliminary and other supporting documentation that relates to him or her.” On appeal, the University admits that it “inadvertently failed” to provide the preliminary records that related to the Appellant. The University states it has subsequently provided the Appellant with “all requested records with appropriate redactions.” Specifically, the University

states it has “redacted all portions of the preliminary records that do not relate to” the Appellant.¹

The University claims this appeal is moot because it has provided the omitted records with redactions. Under 40 KAR 1:030 § 6, “[i]f 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.” However, mootness only applies when the agency provides the requested records in their entirety, not redacted copies. *See, e.g.*, 25-ORD-204 n.2; 23-ORD-313 n.2; 20-ORD-078; 12-ORD-046. Therefore, this appeal is not moot. Because the University admits it failed to provide records to which the Appellant was entitled under KRS 61.878(3), the University violated the Act.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distribution:

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¹ As this appeal was brought because of the University’s denial of records in their entirety, the subsequent redactions are not ripe for review. *See, e.g.*, 25-ORD-145 n.1; 23-ORD-135 n.3.

² The Appellant states “it seems implausible” that the University has provided “all requested records” because there are “gaps in numerical naming of the associated files and direct references to documents [that] are not present in this redacted collection.” However, the University does not claim it provided all requested records; it only claims to have provided those records and portions of records that relate to the Appellant within the meaning of KRS 61.878(3).