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25-ORD-418

December 23, 2025

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

Summary: The Cabinet for Health and Family Services (“the Cabinet”) subverted the intent of the Open Records Act (“the Act”) when it failed to produce records within its own self-imposed deadline.

Open Records Decision

On October 22, 2025, Melanie Barker (“the Appellant”) submitted a request to the Cabinet seeking records showing how much money the Cabinet pays to the Kentucky Integrated Child Care System and the expenses associated with that system for each year between 2020 and the date of the request. The Appellant also sought records showing “where this money comes from.” On October 29, 2025, the Cabinet stated it would make the records available on November 5, 2025, because it needed to “manually search its files and records database for responsive records.” Similar communications were sent by the Cabinet on November 5, 14, and 21, 2025. On November 24, 2025, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s action if the “person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.”

Here, the Cabinet’s initial response did not grant or deny the Appellant’s request. Instead, invoking KRS 61.872(5), the Cabinet stated the date the records would be made available and explained that its delay was because of the need to “manually search its files and records database for responsive records.” However, although the Cabinet stated the date on which the records would be available for

inspection, it did not make any records available by that date. Instead, the Cabinet issued three additional unilateral extensions of the date on which the Appellant could expect the records. The Office has found that a public agency does not comply with KRS 61.872(5) when it notifies the requester of the earliest date on which requested records would be available but then misses its self-imposed deadline. *See, e.g.*, 25-ORD-086; 23-ORD-079; 21-ORD-011. Here, the Cabinet never provided a detailed explanation for why the three additional extensions were necessary, and it then missed each deadline. Therefore, the Cabinet subverted the intent of the Act by delay and excessive extensions of time, within the meaning of KRS 61.880(4), when it failed to make a final disposition of the Appellant's request by the dates on which it said the records would be made available.

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/ Zachary M. Zimmerer
Zachary M. Zimmerer
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Distributed to:

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