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26-ORD-117

March 23, 2026

In re: Joshua Campbell/Fayette County Public Schools

**Summary:** Fayette County Public Schools (“FCPS”) violated the Open Records Act (“the Act”) when did not timely respond to the Appellant’s request. FCPS also violated the Act when, relying on FERPA, it required the Appellant to provide proof that he was both a natural parent and guardian of an identified student.

***Open Records Decision***

On December 29, 2025, Joshua Campbell (“the Appellant”) requested copies of all records “relating to the injury sustained by [his son] on March 28, 2025,” at a particular elementary school. In response, on January 8, 2026, FCPS asked the Appellant to provide a copy of a “valid driver’s license or state ID [and] guardian documentation” to show that he is entitled to the student’s records under FERPA.<sup>1</sup> Subsequently, on January 9, 2026, FCPS produced records responsive to one part of the request but withheld all other responsive records, under FERPA, requesting that the Appellant provide “guardianship documentation for the requested student.” This appeal followed.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “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.” The Appellant submitted his request on December 29, 2025. FCPS did not respond until January 8, 2026, the sixth business day following submission of the request. As such, FCPS violated the Act when it did not timely respond to the request.

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<sup>1</sup> The Federal Educational Rights and Privacy Act, 20 U.S.C. § 1232g, FERPA is incorporated into the Act by KRS 61.878(1)(k).

FERPA provides that “[n]o funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information . . .) of students without the written consent of their parents to any individual, agency, or organization, other than to” specified individuals under conditions not relevant here. 20 U.S.C. § 1232g(b)(1). “Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.” 34 C.F.R. § 99.3.

On appeal, FCPS explains that it did not outright deny the Appellant’s request. Rather, it only required proof that the Appellant was, in fact, a parent and guardian of the subject child. Because FERPA limits access to education records to only certain individuals, including parents, FCPS did not violate the Act when it asked for proof that the Appellant was, in fact, a parent. However, a “parent” includes either a “natural parent,” or a “guardian.” 34 C.F.R. § 99.3. The statute does not require the person requesting FERPA-protected records to be *both* a parent and a guardian. Here, FCPS first required proof that the Appellant was both a “natural parent” and a “guardian.” Then, FCPS narrowed its request to the Appellant by asking him to provide “guardianship documentation for the requested student.” As an explanation, FCPS claims only that “FERPA provides certain rights for legal guardians regarding their children’s education records.” But FCPS does not explain where FERPA grants rights to a “legal guardian” that are different than those afforded to a “natural parent.” Accordingly, FCPS violated the Act when, relying on FERPA, it required the Appellant to demonstrate that he is both a “natural parent” and a “guardian” in order to receive education records related to his child.<sup>2</sup>

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](mailto:OAGAppeals@ky.gov).

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<sup>2</sup> The Appellant also claims that some records withheld by FCPS are not “education records” under FERPA. However, because the Appellant now states that he is the natural parent and guardian of the identified child, he is entitled to all records withheld under FERPA as long as he provides proof of either status. Thus, the Office need not determine if certain records are not “education records” under FERPA.

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
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Distributed to:

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