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26-ORD-129

March 26, 2026

In re: Michael McDaniel/University of Kentucky

Summary: The University of Kentucky (“the University”) violated the Open Records Act (“the Act”) when its initial response failed to explain how the cited exemption applied to the material it redacted from public records. However, the University did not violate the Act when it redacted, under KRS 61.878(1)(a), the name of a private individual from records relating to a personnel matter.

Open Records Decision

Michael McDaniel (“the Appellant”) submitted a request to the University for “copies of all records relating to disciplinary action, paid administrative leave, investigation, or corrective measures concerning [a named employee] for the period September 12, 2025[,] through November 31, 2025.” In response, the University provided the requested records but noted “that third party information has been redacted as it is considered an invasion of personal privacy pursuant to KRS 61.878(1)(a).” This appeal followed.

Under the Act, a public agency denying inspection of public records must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1). The agency must “provide particular and detailed information,” not merely a “limited and perfunctory response.” *Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. 1996). “The agency’s explanation must be detailed enough to permit [a reviewing] court to assess its claim and the opposing party to challenge it.” *Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013). Here, however, the University’s response was “limited and perfunctory” because it did not explain what “third party information” was redacted, nor did it identify the privacy interest at stake. *See, e.g.*, 20-ORD-166; 17-ORD-120. Therefore, the University’s initial response violated the Act.

On appeal, however, the University explains that it redacted only the name of the private citizen who made the initial complaint against the employee. KRS 61.878(1)(a) exempts from disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” This exception requires a “comparative weighing of the competitive interests” between personal privacy and the public interest in disclosure. *Ky. Bd. of Exam’rs of Psychologists v. Courier–Journal & Louisville Times Co.*, 826 S.W.2d 324, 327 (Ky. 1992). The privacy interest asserted must be sufficient to outweigh the public’s interest in disclosure, which is fundamentally “the citizens’ right to know what their government is doing and [to] subject agency action to public scrutiny.” *Zink v. Commonwealth, Dep’t of Workers’ Claims, Labor Cabinet*, 902 S.W.2d 825, 829 (Ky. App. 1994). However, information about private citizens that “would do little to further” that public interest is not subject to disclosure. *Id.*

In 25-ORD-361, the Office found that an agency had properly redacted, under KRS 61.878(1)(a), the name of a private individual who had submitted a complaint to the agency. In so concluding, the Office noted that the name of a complainant is “largely irrelevant [to] the conduct” of the public agency when the “agency did not simply take [the complaint] at face value,” but took subsequent action “based on its own investigation” and “the independent observations of the investigator.” 25-ORD-361 (citing 20-ORD-185). Here, the University affirms that the complainant is not a University employee, but a private citizen, as in 25-ORD-361. The University further states the “complainant notified the University of possible wrongdoing,” after which the “University initiated its own investigation independent of the complainant” and made a decision “based entirely on its investigation and not on the identity of the complainant.” Thus, the facts provide no basis to distinguish this appeal from 25-ORD-361. Accordingly, the University did not violate the Act when it redacted the name of the complainant under KRS 61.878(1)(a).¹

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.

¹ The Appellant argues the “reputational harm” suffered by the employee due to the investigation weighs in favor of disclosure of the complainant’s name. However, reputational harm is not a public interest, but a private interest of the individual employee. Moreover, under KRS 61.878(3), the employee has a more extensive right than the general public to obtain records that relate to her.

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/s/ Zachary M. Zimmerer
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