



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

26-ORD-132

March 30, 2026

In re: John Rothenburger/Shelby County Public Schools

Summary: The Shelby County Public Schools (“the District”) violated the Open Records Act (“the Act”) when it failed to properly dispose of a request within five business days or properly invoke KRS 61.872(5).

Open Records Decision

On November 26, 2025, John Rothenburger (“Appellant”) submitted a request to the District for various records. On December 1, 2025, the District notified the Appellant that, “[d]ue to the volume of his request,” it needed until December 12, 2025, to fulfill his request. This appeal followed.

Under KRS 61.880(1), a public agency must decide within five business days whether to grant a request or deny it and “notify in writing the person making the request, within the five (5) day period, of its decision.” This time may be extended under KRS 61.872(5) when records are “in active use, in storage or not otherwise available,” but only if the agency “immediately notif[ies] the applicant” and gives “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record will be available for inspection.”

Here, the Appellant claims that, as of February 28, 2025, the District had yet to fulfil his request. He points to the District’s December 1 acknowledgement, which was issued within five business days but neither disposed of the request nor gave a detailed explanation of the reason for delay. Rather, the District merely stated that, “[d]ue to the volume of his request,” it needed more time to fulfill his request. The Appellant claims the District failed to properly invoke KRS 61.872(5) to delay his access to the records he requested. On appeal, the District admits it failed to give a detailed explanation as required under the Act. Accordingly, the District violated the

Act when it failed to fulfill the Appellant's request for records within five business days or properly invoke KRS 61.872(5) to delay fulfillment.

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
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

John Rothenburger
Joshua Matthews
Cathy Davis
Andy Moore