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26-ORD-137

March 30, 2026

In re: Derek Woods/Kentucky Department of Juvenile Justice

Summary: The Kentucky Department of Juvenile Justice (“the Department”) subverted the intent of the Open Records Act (“the Act”) when it failed to produce records within its own self-imposed deadline. The Department did not violate the Act when it did not provide records not responsive to the request, when it explained its redactions made under KRS 61.878(1)(a), or when it did not explain the edits made to a record.

Open Records Decision

On January 12, 2026, Derek Woods (“the Appellant”) submitted a lengthy request to the Department seeking five categories of records: (1) “Records related to my 2022 reappointment and salary determination”; (2) “Records concerning judicial branch (AOC) to [Department] appointments”; (3) “Records related to similarly situated employees and pay comparators”; (4) Records concerning pay equity, compression, and corrective adjustments”; and (5) “Records related to [the Appellant’s] salary equity inquiries.” Each category contained specific sub-requests seeking more specific types of records. Among those was a request for communications involving four Department employees or the Department’s human resources staff that discuss the Appellant’s “salary, pay equity concerns, or compensation review requests” and were sent between January 1, 2023, and the date of the request.

On January 20, 2026, the Department invoked KRS 61.872(5), stating that records found in the email accounts of four of its employees were not available because they “may be located in electronic files of various employees” and it would conduct a “forensic search with the assistance of the Commonwealth Office of Technology.” The Department stated that the records would be provided by January 27, 2026. On that date, the Department extended its delay to February 16, 2026, due to the amount of “potentially responsive records.” On February 16, the Department issued its final

response, providing all responsive records with redactions made under KRS 61.878(1)(a).

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 Department’s initial response invoked KRS 61.872(5), stating it needed additional time to respond fully. Though the Department stated the records would be available for inspection on January 27, it did not make any records available by that date. Instead, it delayed the inspection to February 16. 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. Therefore, the Department 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 date on which it said the records would be made available.

Regarding the Department’s final response, the Appellant complains that the Department had stated it possessed 2.2 gigabytes of “potentially responsive records” but ultimately provided only 148 megabytes of records. According to the Appellant, the Department must explain the discrepancy between the size of its initial estimate of records and the size of its ultimate production. The Appellant is incorrect. The Office has held that when the “material is non-responsive, the public agency is not required to cite a statutory exception to justify its denial.” 16-ORD-138; *see also* 26-ORD-127 (finding no violation when a public agency estimated that it possessed 800 pages of responsive records but ultimately determined that it only possessed 614 pages of responsive records). Here, the Department explains that it informed the Appellant that it possessed 2.2 gigabytes of “potentially responsive records” that it would need to review “to determine responsiveness.” The Act does not require the Department to explain the nonproduction of nonresponsive records. Thus, the Office finds no violation of the Act on this basis.

The Appellant also alleges the Department failed to explain its reliance on KRS 61.878(1)(a) to redact the records. That statute exempts “records containing information of a personal nature where the public disclosure thereof would constitute

a clearly unwarranted invasion of personal privacy.” The Appellant complains that the Department only identified the categories of information it was redacting. But such a response does not violate the Act. Rather, public agencies may categorically redact information such as dates of birth, social security numbers, personal telephone numbers, personnel ID numbers, a driver’s license number, and medical information. *See Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 89 (Ky. 2013) (affirming the “categorical redaction” of personal information regarding private individuals found in law enforcement records). The Department clearly stated what categories of information it redacted. In doing so, it satisfied the requirements of the Act.

Finally, the Appellant complains that the Department did not explain why it provided two different versions of the same email and did not provide it in a particular format. First, the Act does not require public agencies to fulfill requests for information, but only requests for records. *See KRS 61.872(2)(a)* (a request to inspect records must include a description of “the records to be inspected”). Therefore, the Department satisfied the Act when it provided responsive emails; it was not required to provide an explanation of the history of the emails. Second, the Department correctly points out that the Appellant did not request that the documents be provided in any particular format. Therefore, the Department was not required to provide the responsive emails in a particular format.¹ As such, the Office finds no violation on this basis.

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
Assistant Attorney General

¹ On appeal, the Department states that the Appellant may submit a specific request for specific formats of the relevant emails.

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Distributed to:

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