



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-173

April 21, 2026

In re: Angela Hogan/Kentucky Board of Alcohol and Drug Counselors

Summary: The Office cannot find that the Kentucky Board of Alcohol and Drug Counselors (“the Board”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the related factual dispute between the parties regarding when the Board sent its response.

Open Records Decision

On February 9, 2026, at 8:02 p.m., Angela Hogan (“the Appellant”) submitted a request to the Board for “access to and copies of public records related to my licensure, supervision role, and credentialing status with” the Board. On February 19, 2026, the Appellant initiated this appeal “regarding the response (or lack thereof)” by the Board to her February 9 request.

However, the Appellant also claimed the Board responded on February 18, 2026, beyond the five business days allowed by KRS 61.880(1), but did not include a copy of the Board’s response, as is required for the Office to review its merits.¹ See KRS 61.880(2)(a); 40 KAR 1:030 § 1. Upon receipt of the notice of this appeal from the Office, the Board provided the Office with a copy of its response letter dated February 17, 2026, in which it advised the Appellant it had located records responsive to her request and would send the unspecified records “via secured email to the email address provided in your request.”

Upon receiving a request for public 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.” KRS 61.880(1). Here, the Appellant states that she sent her request on February 9; however, the

¹ For this reason, the Office’s review is confined to whether the Board sent a timely response upon receipt of the Appellant’s request. On appeal, however, the Board clarifies it did not redact any information from the records provided, nor did it withhold any responsive records.

documentation attached to her appeal confirms that she did not actually send the request until after the close of business on that day; thus, it was not received or deemed to have been received by the Board until the following business day.² Thus, the Board's response was not due until February 17, 2026.

The Board states it received the Appellant's request on February 10, 2026, and responded to it on February 17, 2026, *i.e.*, the fifth business day following receipt of the request. If so, the Board's response was timely under KRS 61.880(1). As noted, however, the Appellant alleges that the Board responded on February 18, 2026. The Office has routinely found that it cannot resolve factual disputes between a requester and a public agency, such as determining when a public agency received a request and when the agency responded. *See, e.g.*, 23-ORD-220 (the Office cannot resolve a factual dispute as to whether a requester actually received a public agency's response); 26-ORD-049; 25-ORD-082; 23-ORD-062; 22-ORD-024; 21-ORD-233. Accordingly, the Office cannot find the Board violated KRS 61.880(1) by failing to respond timely upon receipt of the Appellant's request because the Office cannot resolve the factual dispute between the parties regarding whether the Board responded on February 17 or February 18.³

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/ Michelle D. Harrison
Michelle D. Harrison
Assistant Attorney General

² Under KRS 446.030(a), "[i]n computing any period of time prescribed . . . by any applicable statute or regulation, the day of the act, event or default after which the designated period of time begins to run is not to be included." *See* 24-ORD-046.

³ Upon receipt of the Board's appeal response, including the responsive records, the Appellant raised a number of questions and concerns regarding the Board's "ongoing credentialing and supervision record issues," all of which are beyond the Office's scope of review under KRS 61.880(2). "The Attorney General is not empowered to . . . resolve non-open records related issues in an appeal initiated under KRS 61.880(1)." 99-ORD-121; *see also* 25-ORD-003; 24-ORD-263; 19-ORD-188; 17-ORD-083; 15-ORD-013.

#253

Distributed to:

Angela Hogan, Appellant

Catherine Falconer, General Counsel, Department of Professional Licensing

Jessica Hartley, Board Administrator, Board of Alcohol and Drug Counselors