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26-ORD-241

May 28, 2026

In re: Andrea Craddick/Community Action of Southern Kentucky

Summary: Community Action of Southern Kentucky (“CASK”) did not violate the Open Records Act (“the Act”) when it withheld records containing personally identifiable information exempt under federal law.

Open Records Decision

Andrea Craddick (“the Appellant”) submitted a request to CASK seeking copies of email exchanges she had with employees of CASK. In response, CASK denied the request in part and granted it in part. Specifically, CASK stated that it would provide the Appellant with emails that are “part of [her] personnel file and that pertain directly to [her], such as [her] resignation notice.” However, CASK stated that it was withholding other emails under the Federal Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g,¹ because they “contain confidential information related to children.” This appeal followed.

FERPA provides that, with exceptions not relevant here, “[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.” 20 U.S.C. § 1232g(b)(1). An “educational agency or institution” is an entity “to which funds have been made available under any program administered by the Secretary, if the educational institution provides

¹ FERPA is incorporated into the Act by KRS 61.878(1)(k).

educational services or instruction, or both, to students.” 34 C.F.R. § 99.1(a).² Personally identifiable information includes a “student’s name,” 34 C.F.R. § 99.3(a), or “[i]nformation requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates,” 34 C.F.R. § 99.3(g).

Here, CASK has invoked FERPA to withhold emails that contain “confidential information related to children.” The Appellant contends that she is entitled to receive those records because any children’s names can be redacted and because she is entitled to those records under KRS 61.878(3).

First, the Appellant states that she was a participant in the requested emails. Therefore, it is reasonable to conclude that the emails contain “[i]nformation requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates,” 34 C.F.R. § 99.3(g). Specifically, the Appellant is an individual who “knows the identity of the student[s] to whom the education record[s] relate[.]” *Id.* Therefore, redacting the names of students identified in the requested records would not alter the status of those records as education records containing personally identifiable information of the students under FERPA. *See, e.g.*, 22-ORD-073. As such, CASK was not required to provide redacted copied of the requested emails.

Next, under KRS 61.878(3), “[n]o exemption” under KRS 61.878(1) “shall be construed to deny, abridge, or impede the right of a public agency employee . . . to inspect and to copy any record including preliminary and other supporting documentation that relates to him.” *Id.* The Office has consistently held that KRS 61.878(3) applies to former public agency employees who request records relating to their public employment. *See, e.g.*, 21-ORD-180; 15-ORD-158; 97 ORD-087. However, “a public employee’s right of access does not extend to records that are made confidential by state law, including records protected by the attorney client privilege or the work product doctrine.” 23-ORD-234. Similarly, the right of access granted by KRS 61.878(3) does not extend to records made confidential by federal law. Here, CASK relied on FERPA to withhold the request emails. KRS 61.878(3) does not require CASK to waive that provision.

² CASK’s HeadStart program receives funds from the Office of Head Start within the Administration for Children and Families, a division of the U.S. Department of Health and Human Services. The Appellant does not dispute that CASK must comply with FERPA.

Accordingly, CASK did not violate the Act when it withheld records containing “confidential information related to children” made exempt by FERPA.

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:

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