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26-ORD-244

May 29, 2026

In re: Chris Clark/Green County Board of Education

Summary: The Green County Board of Education (“the Board”) did not violate the Open Records Act (“the Act”) when it denied a request for information that did not describe extant public records. A public agency is not required to create a record in response to a request.

Open Records Decision

Chris Clark (“the Appellant”) submitted a request to the Board for “[a]ll applications, letters of interest, resumes, or other documents submitted by individuals applying for the vacant seat on the [Board], including but not limited to documents submitted during the current board vacancy appointment process.” In response, the Board provided “all of the records [the Appellant] requested”¹ except for “educational transcripts,” which the Board stated “would constitute a clearly unwarranted invasion of personal privacy pursuant to KRS 61.878(1)(a)” if disclosed.²

In a follow-up letter to the Board, the Appellant stated he was “not requesting disclosure of the transcript itself or its contents,” but was “requesting confirmation that the statutory qualification requirement” of high school completion or equivalency under KRS 160.180 “was satisfied, including evidence sufficient to demonstrate that the required documentation was submitted.” In response, the Board reiterated that it had “provided all of the requested records, with the exception of educational transcripts.” The Board denied the Appellant’s request for “confirmation that the statutory qualification requirement was satisfied,” on the grounds that “there is no requirement under the [Act] to respond to a request for information on a particular subject.” This appeal followed.

¹ The Board made certain redactions of personal information under KRS 61.878(1)(a), which are not at issue in this appeal.

² The Attorney General has consistently recognized a significant privacy interest in educational transcripts. *See, e.g.*, 23-ORD-091; 21-ORD-076; 06-ORD-145.

A public agency “is not obligated ‘to respond to questions [or] requests for research.’” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 856 (Ky. 2013) (quoting *Jimenez v. Exec. Off. for U.S. Att’ys*, 764 F. Supp. 2d 174, 182 (D.D.C. 2011)). Thus, an agency need not answer interrogatories or provide information in whatever form a requester demands. Rather, residents of the Commonwealth may inspect extant “public records” after submitting a request “describing the records to be inspected.” KRS 61.872(2)(a).

Here, the Appellant requested “confirmation” that applicants had satisfied the statutory education requirement to serve on the Board, “including evidence sufficient to demonstrate that the required documentation was submitted.” While the Appellant insists that “[t]his is a request for records, not for ‘information,’” he does not identify what records he believes would be “sufficient to demonstrate” or provide “confirmation” that transcripts were submitted, other than the transcripts themselves. *Cf.* 26-ORD-098 (finding a request for “records sufficient to show” certain facts was “a characterization subject to interpretation” and therefore did not describe specific public records).

The Board complied with the Appellant’s request by providing him all documentation submitted by the applicants, with the exception of the transcripts, which he expressly claims he is *not* seeking. A public agency is not “obligated to compile a list or create a record to satisfy an open records request.” OAG 76-375. Because the Appellant’s letter did not describe any existing public records, but merely sought “confirmation” that an event had occurred, the Board did not violate the Act when it denied his request.

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/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

Chris Clark
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